IN THE
UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Hobson, et al.	:	
	:	
v.	:	No. 82-66
	:	
Hansen, et al.	:	

AMENDED MOTION FOR FURTHER RELIEF
AND FOR ENFORCEMENT OF DECREE

Plaintiff Julius W. Hobson, an original plaintiff in the class action which lead to this Court's prior judgment and decree herein of June 19, 1967, hereby moves for further relief and for enforcement of that decree as follows:

1. Defendants have violated two principal portions of this Court's prior opinion and decree herein based on data they themselves have supplied.

a. Defendants have failed to equalize educational resources in District of Columbia elementary schools in contravention of this Court's holding that "the minimum the Constitution will require and guarantee is that for their objectively measurable aspects these schools be run on the basis of real equality, at least unless any inequalities are adequately justified." [269 F. Supp. at 496; emphasis added.] For example, per-pupil expenditures in fiscal 1968 range from a low of $292 in one elementary school to a high of $798 at another--a spread of $506. The fiscal 1964 data, upon which this Court based its prior opinion herein, showed a range from $216 to $627--a spread of $411.

b. Defendants have violated this Court's permanent injunction against discrimination on the basis of "economic status in the operation of the District of Columbia public school system." [269 F. Supp. at 517.] For example, the data show that in 1968, just as in 1965, per-pupil expenditures in the highest income neighborhoods (above $10,000) are substantially higher than those in low income neighborhoods. The pattern of discrimination for fiscal 1968--the last year for which defendants have been able or willing to supply data--is similar to that revealed by the fiscal 1965 data relied upon by this Court in its prior opinion. In addition, the average per-pupil expenditure in fiscal 1968 at <u>all</u> elementary schools west of Rock Creek Park was $103 higher than the average at <u>all</u> elementary schools east of the Anacostia River.

2. In 1967, this Court deferred any more specific remedy for educational resource inequality "until the dust surrounding this fall's 'substantial' teacher integration settles" [269 F. Supp. at 499]. It did so presumably because it believed that reassignment of some "highest salaried" white teachers to predominantly Negro schools would "serve as a vehicle for equalizing faculty" (<u>id.</u>) and thereby also for equalizing per-pupil expenditures [see 269 F. Supp. at 438]. However, the examples cited in paragraphs 1 a. and b. above, conclusively demonstrate that the expected equalization has not occurred and that discrimination on the basis of economic status persists. It is quite likely that the fiscal 1968 data mask even greater discrimination based on economic status in

the allocation of "regular budget" educational resources than they appear to show on their face because the fiscal 1968 data--unlike the fiscal 1964 and 1965 data upon which this Court based its prior opinion--include "impact aid funds" which are required by law to be concentrated "in the underprivileged attendance areas of the city" and which are substantial in amount. [See 269 F. Supp. at 440.]

3. On the basis of the aforementioned evidence of non-compliance with this Court's prior opinion and decree herein, as elaborated more fully in the attached Memorandum of Points and Authorities incorporated herein by reference, plaintiffs hereby respectfully move that this Court order the defendants to equalize per-pupil expenditures in District of Columbia elementary schools as follows:

a. On or after October 1, 1970, per-pupil expenditures from the regular District of Columbia budget (excluding impact aid funds, Title I ESEA funds, UPO funds, and, in general, all funds not from the regular congressional appropriation) in any single elementary school (not "administrative unit"), shall not deviate by more than 5% from the average per-pupil expenditure for all elementary schools in the District of Columbia school system. The 5% limit may be exceeded only for "adequate justification" shown to this Court in advance. "Adequate justification" shall include only provision of compensatory education for educationally deprived pupils or provision of special educational services for the mentally retarded or physically handicapped.

b. By October 1, 1970, and by October 1 of each succeeding year thereafter, defendants shall serve on plaintiffs, file with the Clerk of this Court, and cause to be disseminated to all parents of elementary school children in the District of Columbia information sufficient to establish compliance

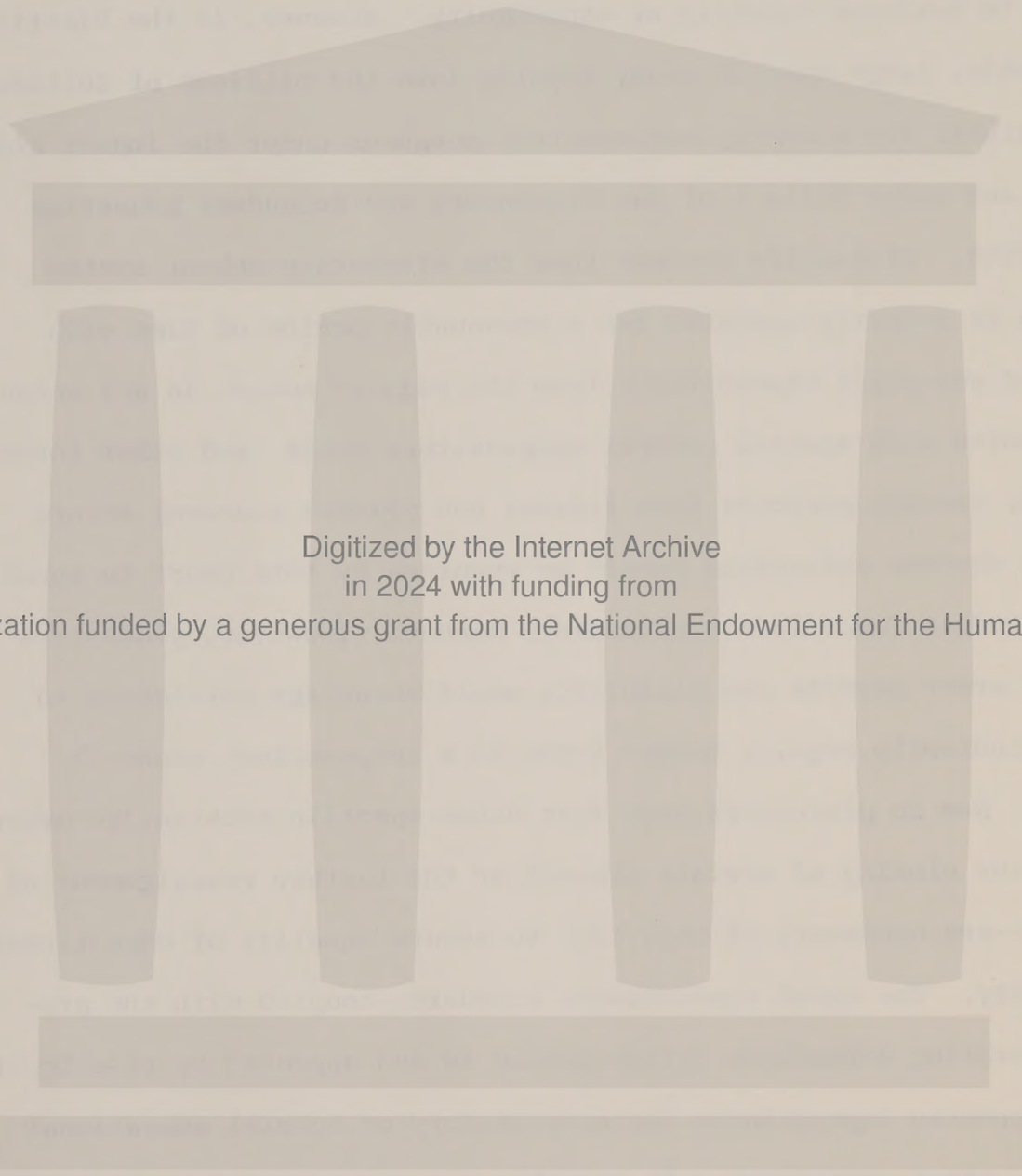
with the order for per-pupil expenditure equalization. At a minimum, such information shall include, in tabular form for each elementary school (not administrative unit), data in the following categories: (1) Name of school; (2) Income level of the neighborhood from latest available U.S. Census data; (3) Average daily membership; (4) Total expenditures from the regular D.C. congressional appropriation only; (5) Per-pupil expenditures from the regular D.C. congressional appropriation only; (6) Total expenditures from impact aid funds; (7) Per-pupil expenditures from impact aid funds; (8) Total expenditures under Title I of the Elementary and Secondary Education Act of 1965; (9) Per-pupil expenditures under Title I of the Elementary and Secondary Education Act of 1965; (10) Total of all other expenditures; (11) Total of all expenditures from all sources; (12) Per-pupil expenditures from all sources.

c. In each report filed and disseminated pursuant to the requirements of paragraph 3.b. above or in any document filed in response to this Motion, defendants must specifically indicate in what respects, if any, their methods of computing the data in that report or document differ from the methods used in computing the fiscal 1964 and 1965 data previously relied upon by this Court or the fiscal 1968 data analyzed in this motion.

As noted in the attached Memorandum of Points and Authorities, it should be stressed that the remedy plaintiffs request herein does not constitute an endorsement of the abstract idea that "equal dollars" necessarily maximize "equal educational opportunity". Plaintiffs agree that in certain instances, such as educating pupils from underprivileged neighborhoods, it is sound policy to spend more than the system-wide average to maximize equality of opportunity. However, in the District of Columbia, large sums of money running into the millions of dollars are available for strictly compensatory purposes under the impact aid program and under Title I of the Elementary and Secondary Education Act of 1965. Plaintiffs contend that the elementary school system ought to be properly operated for a reasonable period of time with equalized per-pupil expenditures from the regular budget in all schools supplemented with special federal compensatory funds (and other funds for other special purposes from federal and private sources) before deciding whether defendants should be required by this Court to spend regular budget funds in a compensatory manner. (However, plaintiffs' proposed order permits and plaintiffs would encourage defendants to spend voluntarily regular budget funds in a compensatory manner.)

Nor do plaintiffs urge that other specific substantive measures--such as the closing of certain schools or the further reassignment of teachers--are necessary at this time to secure equality of educational opportunity. The equal expenditures standard, coupled with the provision enabling defendants (after notice to and approval by this Court) to make greater expenditures for compensatory or special educational services, seems preferable. It promotes a more manageable arrangement for the operation of the public schools, both in terms of judicial efficiency and in terms of educational flexibility.

For the reasons outlined above and in the attached Memorandum of Points and Authorities incorporated herein by reference, together



with such other reasons as may be presented in further responsive pleadings or on oral hearing, plaintiffs respectfully move that this Court issue the order referred to in paragraphs 3.a. - c. above. After issuing such an order, this Court should retain jurisdiction to insure compliance therewith.

Respectfully submitted,

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Certificate of Service

I, Peter F. Rousselot, hereby certify that on this 19th day of May, 1970, I sent by first class mail, postage prepaid, copies of the foregoing "Amended Motion For Further Relief and For Enforcement of Decree", together with the Memorandum of Points and Authorities and Appendix in support thereof, as follows: one copy to each member of defendant District of Columbia School Board, in care of Gertrude L. Williamson, Executive Secretary of that Board at 415 12th Street, N.W.,Washington, D.C. 20004; one copy to defendant Acting Superintendent of Schools of the District of Columbia, at 415 12th Street, N.W., Washington, D.C. 20004; two copies to Hubert B. Pair, Acting Corporation Counsel, D.C., attorney for defendants, District Building, Washington, D.C. 20004; and one copy to Don R. Allen, attorney for intervenors Mr. and Mrs. William Bennett and Mrs. Valerie Allen, 1200 Tower Building, Washington, D.C. 20005.

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Peter F. Rousselot

IN THE
UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Hobson, et al.	:	
	:	
v.	:	No. 82-66
	:	
Hansen, et al.	:	

MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF AMENDED MOTION FOR FURTHER RELIEF AND FOR ENFORCEMENT OF DECREE

In its prior opinion herein, this Court limited its analysis of the available data on per-pupil expenditure differentials between District of Columbia schools to data on such expenditures from the general congressional appropriation for the District because such data "facilitate the court's exploration of the equities in the school administration's distribution of assets among the schools in precisely those situations when the policies and purposes of distribution come squarely within its control" (269 F. Supp. at 437; emphasis added.) After that examination disclosed discrimination in per-pupil expenditures on the basis of both racial and economic status, this Court enjoined all such discrimination in the future (269 F. Supp. at 517).. It also held that "the minimum the Constitution will require and guarantee is that for their objectively measurable aspects these schools be run on the basis of real equality, at least unless any inequalities are adequately justified". (269 F. Supp. at 496; emphasis added.)

This Court relied upon per-pupil expenditure data in defining the "objectively measurable aspects" which the District was constitutionally required to equalize. (269 F. Supp. at 436-438, 495-496.) Virtually all important objectively measurable educational resources are reflected in per-pupil expenditures. Reports from the U.S. Office

of Education state that "the typical public school district allocates about 75% of expenditures to instruction." Classroom teachers constitute a substantial item of "instruction" and customarily account for approximately 85% of the total amount spent on instruction. Thus, the average district allocates from 60% to 65% of current expenditures to teachers' salaries.[1] Low or high expenditures per-pupil reflect differences in the salaries paid temporary and permanent teachers. They also reflect the distribution of books per pupil, the allocation of equipment and supplies, the availability of library books and space, and the assignment of special experiments in education by schools.

In its prior opinion, this Court found certain of the differentials in per-pupil expenditures based on fiscal 1964 and fiscal 1965 data to be "spectacular", and it disposed of defendants' lame contentions that they were "paper statistics only." (269 F. Supp. at 437-438.) Despite these findings and rulings, data on per-pupil expenditures supplied by defendants themselves,[2] demonstrate that discrimination on the basis of economic status persists and certain of the differentials continue to be spectacular.

Chart 1 in the Appendix to this Memorandum of Points and Authorities is a reproduction of an exhibit introduced at the original trial of this case based on fiscal 1965 data on per-pupil expenditures. It shows that those neighborhoods with income ranges from $9,000 to $12,000 and up, had higher expenditures per-pupil in their elementary schools than did those neighborhoods with income ranges from under $3,000 to $8,999.[3]

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1 / National Education Association, Division of Fields Services and Association of Classroom Teachers - Guidelines: For Effective Representation of Teachers #9-1969-6 pages.

2 / See the Memorandum dated May 26, 1969, from the District of Columbia Superintendent of Schools to a Committee of the District of Columbia School Board, attached hereto in the Appendix as Exhibit A. See also the additional data later supplied at that Committee's request, attached hereto as Exhibit B. A description of the data contained in these Exhibits appears in the Appendix.

3 / All income ranges are from 1960 U.S. Census data.

Chart 2 shows that in fiscal 1968 the highest income neighborhoods from $10,000 to $12,000 and over still had higher average expenditures per-pupil in their elementary schools than any other income neighborhoods in the city. Although Chart 2 does indicate some relative improvement over Chart 1 in the lowest income neighborhoods ($4,000 and under), it is significant that Chart 2 includes impact aid funds and UPO funds which are not included in Chart 1. Since the substantial impact aid funds[4] that the District receives are required to be concentrated in the "underprivileged attendance areas of the city" (269 F. Supp. at 440), the relative improvement of the elementary schools in the lowest income neighborhoods may be due to the concentration of the impact aid funds in those schools.

Chart 3 in the Appendix is also a reproduction of an exhibit introduced at the original trial of this case based on fiscal 1964 data from the regular budget only. It shows that per-pupil expenditures at 11 selected elementary schools all located west of Rock Creek Park were substantially higher than per-pupil expenditures at 11 selected elementary schools all located in southeast Washington.[5] Chart 3 shows a spread of $411 between the highest and lowest selected schools in per-pupil expenditures.

Chart 4 in the Appendix, based on data from the regular budget plus impact aid and UPO funds, lists the 11 lowest and 11 highest schools in terms of expenditures per-pupil in fiscal 1968. It shows that 10 out of the 11 schools with the lowest expenditures per-pupil are located in Anacostia[6] and that 4 of those with the highest expenditures per-pupil are located west of Rock Creek Park. The spread between the highest average expenditure per-pupil elementary school in 1968 (Bundy $798) and the lowest (McGogney $292) was $506 compared to the $411 spread for the selected elementary schools shown on Chart 3.

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4 / For example, in fiscal 1966 and 1967, the District schools were eligible for and received $4,300,000 in impact aid funds. (269 F. Supp. at 440.)

5 / Seven out of the 11 schools were located east of the Anacostia River.

6 / See note 5 *supra*.

Table 1 in the Appendix summarizes the fiscal 1968 per-pupil expenditure data for each elementary school west of Rock Creek Park, and each elementary school east of the Anacostia River. That comparison reveals the startling fact that the average per-pupil expenditure at all elementary schools west of the Park is $103 higher than the average at all elementary schools east of the Anacostia River.

In light of the evidence of discrimination on the basis of economic status outlined above, coupled with the frequently spectacular differentials in per-pupil expenditures that persist between individual elementary schools, it becomes appropriate to consider what more specific relief is now required.

In 1967, this Court deferred a more specific decree on educational resource equalization "until the dust surrounding this fall's 'substantial' teacher integration settles." (269 F. Supp. at 499.) There were, no doubt, several reasons for deferring such a more specific decree, among them the apparent expectation that "substantial" teacher integration would produce substantial equalization of per-pupil expenditures because teachers' salaries comprise a significant portion of those expenditures[7/] and because a large number of the highest paid teachers were white teachers teaching on all-white or almost all-white elementary school faculties. (See 269 F. Supp. at 438 and 499) This Court may also have been swayed by the fact that many of these issues of remedy "were ignored at trial by counsel for both sides, each intent instead on establishing or refuting the primary constitutional violation." (269 F. Supp. at 516)

It is plaintiffs' contention that, as soon as the "dust settled" with the filing in this Court of defendants' progress report on faculty integration on January 2, 1968, it was defendants' responsibility to immediately take an inventory of educational resource distribution in the District of Columbia schools in each of the areas discussed in this Court's prior opinion herein (see 269 F. Supp. at 431-442; 495-499; 516-517). Once having taken such an inventory, defendants immediately

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7/ See note 1 supra.

and eagerly should have moved voluntarily to equalize resources in accordance with the general principles outlined in this Court's prior opinion. Yet defendants did nothing of the sort. In part, this may have been because they were unaware of the mandate of this Court's opinion on educational resource equalization and also unaware of the mandate of at least two federal statutes. In part, it may have been because the School Board and the School Administration kept "passing the buck" back and forth as to whose responsibility it was to "implement the Wright decision".

Consider, for example, the following statement by one School Board member, generally considered progressive on educational matters, at a School Board meeting held on July 14, 1967:

> One of the unfortunate things about the data on which the Wright decision is based is that this data is three years old and I expect a great deal of that would be different if we would use the current data ***. *** I take it for instance that in the first decree, the one relating to discrimination the defendants are permanently enjoined from discrimination on the basis of racial and economic status. I take it he is referring to the difference in per-pupil expenditure in the low income schools and the schools west of Rock Creek Park. My guess is that differential would be much smaller now. His figures were based on a period before the elementary-secondary act was in effect, and that is on the low income schools ***. *** I expect that Section I [of the decree] has been pretty well taken care of now by the impact aid program and by the elementary and secondary education program. [Transcript, pp. 21-22.]

This statement misinterprets this Court's prior opinion requiring, on constitutional grounds, equalization of objectively measurable educational resources purchased through the general congressional approporiation for the District of Columbia. It also misinterprets the statutory requirements of Title I of the Elementary and Secondary Education Act of 1965. Funds allocated under Title I are meant to provide a compensatory supplement to local funds. They are not meant to supplant local funds; nor are they to be used to equalize expenditures between schools.[8/] This federal program

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8 / Title I, §109(a)(1970) is the statutory provision currently in effect which requires comparability of local expenditures prior to receiving Title I federal funds. The former provision requiring comparability was contained in 45 C.F.R. §116.17(h), enacted pursuant to the congressional declaration of the compensatory purposes of Title I set forth at 20 U.S.C. §241a. Although Title I, §109(a)(1970) appears to temporarily bar the remedy of a cut-off of federal Title I funds by the Office of Education for violations of comparability standards, there is nothing in §109(a) which prohibits an appropriate private party from seeking equitable relief in the courts for violations of those standards.

requires that the school district provide equal resources to all children from its regular budget prior to receiving Title I aid. Funds under this special federal program are not intended to perform the constitutionally and statutorily mandated equalization function, but rather to supplement local resources, to provide additional and compensatory education for educationally deprived school children.

In view of this Court's prior holding that objectively measurable educational resources from the general congressional appropriation must be allocated equally, and in light of the previously noted congressional requirement that impact aid funds be concentrated in the "underprivileged attendance areas of the city", it is clear that impact aid funds in the District of Columbia also must be used to provide a compensatory supplement to the general congressional appropriation not to supplant it.

Another example of uncertainty on the part of the School Board as to its legal obligations occurred at a School Board meeting on July 2, 1969, when one Board member stated, in connection with a proposal to check certain school zone boundary changes with this Court in advance:

> I feel that I am going to have to vote against the proposal that we go to Judge Wright.
>
> First of all, the data on which Judge Wright based his decree--are now several years old--and may or may not be just as adaptable. ***
>
> [I]t would seem to me that it would be an awful lot better if the Board did decide what it wanted to do, what was right to do--and then did it.
>
> If we are illegal, we will find out soon enough. [Transcript, pp. 42-43.]

Perhaps it is not surprising that members of the School Board were uncertain about these vital statutory and court-mandated requirements. At a School Board meeting held on December 29, 1967 to consider various progress reports due to be filed (and, in fact, filed) with this Court on January 2, 1968, members of the Board were told by their legal advisor, a representative of the D.C. Corporation Counsel's office, that he "would not presume to judge what Judge Wright would decide with regard to the sufficiency of the reports." [Transcript, p. 18.]

Another important reason why the defendants in this case have never moved to implement the educational resource equalization portions of this Court's prior opinion has been an inability to decide which defendant is responsible for such implementation. Consider the following exchange which took place at a School Board meeting on July 7, 1969 between a School Board member and the then Superintendent of Schools:

> Superintendent: We thought that inasmuch as the Wright Committee had been working ever since this new Board has been in operation, it would have been a little presumptious for us to have moved ahead in terms of developing any specific proposal. I think that really this is a policy matter that comes from the Board of Education. [Transcript, p. 94.]
>
> Board Member: It seems to me there is nobody on the Board who can take a thousand pages of figures and come up with a policy. And I do not think it is our obligation as individuals to do that; to see that it is done, but not to do it. [Transcript, pp. 96-97.]

The foregoing review of defendants' misinterpretation and uncertainty about the requirements of this Court's prior decision in the area of educational resource equalization highlights the necessity for granting more specific relief at this time. The specific orders with respect to such equalization which plaintiffs now seek are the product of almost 3 years of experience with defendants' inaction in this area; a careful review of this Court's prior opinion herein; and a review of what other courts have found to be judicially manageable standards. With respect to the latter point, it should be noted that many courts have ordered equalization of per-pupil expenditures in all schools within a single school district. See, e.g., Kelly v. Altheimer, 378 F. 2d 483, 499 (8th Cir. 1967); United States v. Jefferson County Board of Education, 372 F. 2d 836, 899-900 (5th Cir. 1966), aff'd per curiam on rehearing en banc, 380 F. 2d 385 (5th Cir.), cert. denied, 389 U.S. 840 (1967); United States v. Plaquemines Parish School Board, 291 F. Supp. 841, 846 (E.D. La. 1967), aff'd as modified, 415 F. 2d 817(5th Cir. 1969); Hill v. LaFourche Parish School Board, 291 F. Supp. 819, 822-823 (E.D. La. 1967); Lee v. Macon County Board of Education, 267 F. Supp. 458, 488-489 (M.D. Ala.), aff'd., 389 U.S. 215 (1967).

The reference in the requested order to individual elementary schools rather than "administrative units" is necessary because the D.C. School Administration, in originally reporting the 1968 per-pupil expenditure data, attempted to lump two or more elementary schools together as "administrative units" and report only the per-pupil expenditures for the unit. Once individual data for each component school were obtained, they often showed marked disparities from one school to another which were "averaged out" when only the administrative unit figure was reported. For example, the "Hyde-Fillmore-Jackson" administrative unit had an average per-pupil expenditure for the unit of $450, but the separate school figures ranged from a high of $510 at Fillmore to a low of $386 at Jackson--a spread of $124. (See Exhibits A & B in the Appendix.)

Requiring equalization of per-pupil expenditures at each elementary school compared to the system-wide average per-pupil expenditure for all elementary schools will guarantee that shifts in the areas of the city where low and high income residents live will not reintroduce discrimination on the basis of economic status. Such discrimination could be reintroduced if this Court merely ordered an increase in per-pupil expenditures in certain specified schools based on presently acceptable income level data which later might prove out-of-date.

Although the School Administration should strive for precise mathematical equality in per-pupil expenditures from the regular budget (except for "adequate justification" shown to this Court in advance), the permissible 5% deviation is designed to provide the administrative leeway necessary to deal with that "fraction" of per-pupil expenditures which this Court in its prior opinion found "not [to] betoken real inequalities in educational opportunities." (269 F. Supp. at 437.)

It should be stressed that the remedy plaintiffs request herein does not constitute an endorsement of the abstract idea that "equal dollars" necessarily maximize "equal educational opportunity". Plaintiffs are well aware that this Court, in its prior opinion, held that:

> Where because of the density of residential segregation or for other reasons children in certain areas, particularly the slums, are denied the benefits of an integrated education, the court will require that the plan [to alleviate pupil segregation] include compensatory education sufficient at least to overcome the detriment of segregation and thus provide as nearly as possible, equal educational opportunity to all schoolchildren. [269 F. Supp. at 515.]

However, in the District of Columbia, large sums of money running into the millions of dollars are available for strictly compensatory purposes under the impact aid program and under Title I of the Elementary and Secondary Education Act of 1965. It seems to plaintiffs that the elementary school system ought to be properly operated for a reasonable period of time with equalized per-pupil expenditures from the regular budget in all schools supplemented with special federal compensatory funds (and other funds for other special purposes from federal and private sources) before deciding whether defendants should be required by this Court to spend funds from the general congressional appropriation in a compensatory manner. (However, plaintiffs' proposed order permits and plaintiffs would encourage defendants voluntarily to spend those funds in a compensatory manner.)

It should also be observed that the remedy plaintiffs propose leaves it entirely to the discretion of the defendants how per-pupil expenditures should be equalized. Without in any way waiving their rights to request more specific equalization decrees in the future, plaintiffs in this suit seek only equalization of per-pupil expenditures themselves.

In order to insure compliance with their per-pupil expenditure decrees, each of the courts whose equalization decrees were cited above imposed strict annual reporting requirements on the school administration. Such requirements are particularly crucial here in view of the repeated expressions (or wishes) on the public record by School Board members, to the effect that "because the data on which the prior decision was based are now probably out of date" the legal conclusions based on the data may no longer be valid.

There are two principal problems with this "out-of-date" rationale in the per-pupil expenditure area--and perhaps in many other areas as well. First, the D.C. School Board and the School Administration frequently are not sure what data to collect in order to see whether their "suspicions", "hopes", etc. about an "improved situation" are right or wrong. Second, even if they know what pertinent data should be compiled, they have proved unwilling or unable to provide it systematically. Requests to do so are usually met with one of the following responses:

1. That data is "unavailable".
2. That data is "available", but has not been computed. It would be too expensive or difficult to compute it. We should be spending our scarce resources educating children not compiling reports.
3. We will supply you with that data but only just this once.

While these responses might be appropriate to deal with truly frivolous requests, the information at issue here is basic not frivolous. It is necessary to establish whether the School Board and School Administration are complying with this Court's prior decision. Even without that decision, it is necessary to establish compliance with Title I of the Elementary and Secondary Education Act of 1965. 9 / Leaving aside that statute, such information is prima facie an essential tool of educational policy that the School Board should be eager to have.

Under these circumstances it is startling that defendants themselves have not voluntarily required that such information be compiled and published every year. The failure to do so suggests to plaintiffs the only somewhat novel aspect of their requested remedy--that the minimum 12 categories of information, in the tabular form referred to in the Motion, be required by this Court to be disseminated to all elementary school parents.

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9 / Title I requires submission of periodic reports establishing compliance with its comparability standards. Title 1, §109(a)(1970).

As a result of years of litigation and administrative proceedings, the U.S. Securities and Exchange Commission has developed comprehensive reporting requirements which apply whenever a stockholder is asked to vote on election of directors and other major corporate matters. Prior to so voting, each stockholder must be given a proxy statement which must include, inter alia, certified financial statements and information on officers' salaries, etc. In many ways, District of Columbia elementary school parents have a greater stake in the success of their children's schools than the stockholders of General Motors have in that company. They are entitled to know at least the rudimentary information in the 12 categories referred to in the attached Motion in order to make intelligent decisions about their schools and to participate intelligently in improving them. It is no answer to say that the school budget is "public". Even the School Board member quoted earlier in this memorandum was stupefied by those "thousand pages of figures". Relying solely on the budget is like telling a stockholder that he can come to company headquarters and "inspect the books".

For all the reasons outlined above, we urge this Court to grant plaintiffs' proposed decrees in the form outlined in the attached Motion.

Respectfully submitted,

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A P P E N D I X

APPENDIX

Exhibit A in this Appendix contains, in tabular form, data on per-pupil expenditures in District of Columbia elementary schools supplied by defendant Superintendent of Schools to a Committee of defendant School Board on May 26, 1969. Because certain of the data in Exhibit A were provided only for groups of two or more schools known as "administrative units" (e.g., "Hyde-Fillmore-Jackson"), that Committee requested a further breakdown of the data for those units showing per-pupil expenditures for the individual component schools comprising each administrative unit. That breakdown, also supplied by defendant Superintendent of Schools, appears in this Appendix as Exhibit B.

Charts 2 and 4 in this Appendix have been prepared by plaintiffs from the data, for fiscal 1968, which appears in the columns in defendants' tables marked "ADM" and "Expenditures D.C. Budget" in Exhibit A, and "ADM" and "General Fund Expenditures" in Exhibit B. The covering letter from defendant Superintendent of Schools and footnote c to the column "Expenditures D.C. Budget" in Exhibit A indicate that the data in that column for fiscal 1968 include UPO funds and impact aid funds. Data on "income level of neighborhood" are the same data used at the prior trial of this case--1960 U.S. Census data.

Table 1 in this Appendix has also been prepared by plaintiffs from the same columns of data supplied by defendants that plaintiffs used to prepare Charts 2 and 4.

Charts 1 and 3 in this Appendix are photographically reduced reproductions of exhibits introduced at the original trial of this case in 1966.

EXHIBIT A

PUBLIC SCHOOLS OF THE DISTRICT OF COLUMBIA
SUPERINTENDENT OF SCHOOLS
PRESIDENTIAL BUILDING
415 - 12TH STREET, N. W.
WASHINGTON, D. C. 20004

May 26, 1969

Mr. Julius W. Hobson, Chairman, Board of Education's
Committee to Study the Implementation of the Wright Decree
300 N Street, S. W. #510
Washington, D. C. 20024

Dear Mr. Hobson:

The attached report, CHART B - AVERAGE EXPENDITURE PER PUPIL for FY 1963, FY 1965, FY 1968, is submitted as per the instructions of the Board of Education. The data for this report were developed from information provided by the Accounting Department and the Automated Information Services.

The column entitled "ESEA Title II" and "Other Funds" represents ESEA Title II (Library Books) in all instances with the exception of the Military Road Elementary School which received an allocation of $8,046.20 from P.L. 313. In FY 1968, the column entitled "ESEA Special Program Expenditures" represents programs funded under Title I and Title III. The column entitled 'Expenditures D. C. Budget for FY 1968" represents funds appropriated for the operation of D. C. Public Schools in the regular District of Columbia Appropriation, Impact Aid Funds and UPO Funds. A narrative report discussing these charts is attached for your information.

In addition to the regular listings of expenditures by schools, listings have been prepared indicating expenditures by schools in each Ward in order that comparisons may be made among the schools in different areas of the city.

Sincerely Yours,

William R. Manning
Superintendent of Schools

WRM/mgj

cc: Members of the Board
Mr. Henley

	FISCAL YEAR 1963				FISCAL YEAR 1965				FISCAL YEAR 1966							
	Bldg Capacity	ADM	Expenditures D.C. Budget	Average Expenditures per Pupil	Bldg Capacity[a]	ADM	Expenditures D.C. Budget	Average Expenditures per Pupil	Bldg Capacity	ADM	Other Funds[c]	ESEA Special Program Expenditures[b]	Total ESEA Expenditures	Expenditures D.C. Budget	Average Expenditures	Average Expenditures per Pupil
Adams-Oyster[1]	910	627.7	222,389.57	354.29	910	599.0	242,858.43	405.44	900	620.0	473.42	-	473.42	242,464.10	242,937.52	391.83
Arthur	1,016	936.6	256,136.16	273.47	1,016	993.1	306,886.47	309.02	996	1,064.5	847.97	20,074.00	20,921.97	366,123.42	387,045.39	363.59
Arthur[2]	806	635.8	181,585.66	285.60	806	809.5	221,701.11	273.87	786	610.2	215.12	5,724.44	5,938.56	284,077.05	290,016.61	475.28
Ashmun	550	838.2	205,271.31	244.90	800	908.8	299,258.65	330.02	780	1,073.6	1,259.61	107.00	1,366.61	398,054.03	399,420.64	372.04
Barnard	1,026	1,142.4	297,610.46	260.51	1,026	1,271.6	393,471.78	309.43	996	1,071.4	1,115.76	- -	1,115.76	413,126.52	414,242.28	384.77
Beers	680	737.8	189,122.28	256.33	680	804.7	224,216.10	278.63	660	921.0	1,005.66	5,624.14	6,629.80	335,035.83	341,665.63	370.67
Bowen & Annex	520	518.4	147,999.15	285.49	520	513.8	173,646.90	337.97	510	507.9	896.75	- -	896.75	182,557.71	183,454.46	361.20
Burrus	920	964.6	280,009.92	290.29	920	1,067.8	338,083.58	317.18	900	1,091.9	702.66	29,019.04	29,721.70	406,841.73	436,263.83	399.54
Burt Brent	480	442.4	154,449.64	349.12	480	490.6	162,778.39	331.80	480	440.2	290.83	11,709.88	12,000.71	202,611.45	214,612.16	487.53
Blow Pierce	520	791.9	222,442.46	280.90	520	718.4	216,433.65	301.27	510	459.6	716.79	30,958.32	31,675.11	206,670.79	238,345.90	518.59
Brown	736	687.3	207,007.61	301.19	730	624.0	261,663.43	419.33	720	620.6	263.32	14,232.12	14,495.44	293,236.79	307,732.23	495.86
Brightwood	574	693.9	198,148.46	285.56	574	728.7	211,754.58	290.14	654	741.4	296.16	- -	296.16	284,292.18	284,588.34	383.85
Brookland Slowe[3]	700	653.2	228,543.15	349.88	700	756.1	295,069.91	393.37	1,140	1,198.9	1,793.14	- -	1,793.14	440,527.62	442,320.81	368.10
Bruce	520	702.2	178,431.98	254.10	520	584.0	201,981.29	345.86	510	519.5	772.94	17,364.88	18,137.82	256,169.28	274,307.21	528.02
Bryan	838	825.3	248,685.82	301.33	836	878.6	285,166.29	324.57	828	859.9	844.48	23,458.69	24,003.17	346,136.81	370,139.98	435.00
Buchanan	640	599.8	208,498.08	347.61	640	654.5	238,799.26	364.86	630	674.1	375.82	8,974.11	9,349.93	263,941.16	273,291.09	405.42
Bundy	600	434.5	217,363.89	500.26	600	422.2	256,164.00	606.73	600	354.3	292.59	———	292.59	282,331.31	282,623.90	797.70
Bunker Hill[3]	780	946.9	218,970.70	231.25	780	1,119.3	309,455.27	276.47	1,116	1,158.2	1,157.69	———	1,157.69	406,687.79	407,845.48	352.14
Burroughs	928	933.1	246,764.25	266.62	928	969.9	302,000.67	311.37	918	919.3	758.90	———	758.90	358,549.26	359,308.16	390.85
Burrville	640	554.6	208,990.01	376.83	640	615.1	223,513.89	363.38	630	560.9	167.40	8,709.90	8,877.30	249,882.58	258,759.88	461.33
Cleveland	580	682.2	216,744.81	317.71	580	707.8	220,019.61	310.85	570	548.5	222.23	11,121.44	11,343.67	223,787.82	235,131.49	428.68
Congress Hgts. & Annex	480	593.4	168,943.77	284.71	480	697.0	207,151.08	297.21	480	901.2	465.58	———	465.58	289,582.92	290,048.50	321.85
Cook, J. F.	620	762.1	228,192.47	299.43	620	791.5	252,236.98	318.68	600	559.7	———	27,935.34	27,935.34	247,866.89	275,802.23	492.77
Cooke, H. D.	896	1,062.7	243,870.66	229.49	896	868.6	293,666.50	338.09	876	1,096.6	400.00	24,598.28	24,998.28	396,164.95	421,163.23	384.06
Crummell & Annex	520	567.5	166,592.19	293.55	520	559.1	200,526.09	358.68	510	466.6	831.81	———	831.81	203,622.44	204,454.25	438.18
Davis and Annex[4]	800	1,110.8	271,443.71	244.37	1,266	1,443.6	423,837.56	293.60	1,296	1,542.7	1,874.87	288.05	2,162.92	575,097.34	577,260.26	374.19
Draper	938	924.3	248,519.61	268.87	938	1,154.6	312,478.51	270.64	918	1,394.0	2,170.46	19,226.50	21,396.96	463,772.07	485,169.03	348.04
Dunbar	1,106	1,030.5	280,235.07	271.94	1,106	998.5	327,421.35	327.91	1,086	981.5	1,316.69	6,266.85	7,583.54	359,704.89	367,288.43	374.21
Eaton-Hearst	830	564.9	220,747.54	390.77	830	621.6	286,501.94	460.91	810	724.1	801.69	3,019.46	3,821.15	341,719.22	345,540.37	477.20
Edmonds Peabody	680	739.2	205,555.05	278.08	680	749.4	241,385.35	322.10	660	522.6	251.46	7,274.20	7,525.66	320,985.81	328,511.47	628.61
Emery	520	789.2	194,409.31	246.34	520	748.9	219,581.50	293.21	510	680.4	248.98	30,478.23	30,727.21	268,036.34	298,763.55	439.10
Gage Eckington	640	591.7	207,194.39	350.17	640	693.2	217,586.04	313.89	600	705.4	1,070.38	4,866.19	5,936.57	271,869.55	277,806.12	393.83
Garfield	800	914.1	239,792.42	262.33	800	970.9	275,302.75	283.55	780	1,067.6	1,240.81	———	1,240.81	348,981.79	350,222.60	328.05
Garrison[5]	520	899.5	240,491.00	267.36	1,076	1,171.0	365,225.85	311.89	1,056	1,023.2	388.76	15,235.99	15,624.75	387,487.97	403,112.72	393.97
Gibbs[6]									1,086	1,017.5	2,785.92	78.93	2,864.85	364,711.61	367,576.46	361.25
Giddings	617	600.1	237,195.76	395.26	676	613.4	238,711.91	389.16	660	473.8	220.31	9,712.35	9,932.66	225,825.67	235,758.33	497.59
Gordon	986	1,048.0	279,871.00	267.05	986	1,018.8	332,436.52	326.30	966	940.1	246.77	21,870.71	22,117.48	384,063.54	406,181.02	432.06
Green					1,116	850.1	21,983.60	25.85	1,166	1,360.1	1,917.40	833.50	2,750.90	452,217.99	454,968.89	334.51
Grimke	640	1,071.0	278,506.04	260.04	640	799.3	283,676.94	354.16	690	666.2	303.97	296.66	600.63	316,422.73	317,023.36	475.97
Hardy Key	680	334.1	137,687.88	412.12	686	333.4	166,437.08	499.21	630	479.3	449.07	———	449.07	225,739.51	226,188.58	471.91
Harris[5]					986	583.1	238,003.80	408.17	966	1,161.8	1,408.65	12,961.54	14,370.19	404,045.71	418,415.90	360.14
Harrison	520	891.2	241,952.25	271.49	520	583.6	212,433.43	364.01	570	657.9	329.09	27,539.94	27,869.03	270,720.98	298,590.01	453.85
Hart-Ludlow	520	419.2	141,433.89	337.35	520	468.3	179,881.66	349.95	510	423.5	688.49	14,621.04	15,309.53	191,212.96	206,522.49	487.66
Hayden[5]	848	891.3	227,690.72	255.46	848	1,089.8	300,775.09	275.99	1,056	1,527.2	677.17	13,751.73	14,428.90	469,896.45	484,325.35	317.13
Hayes	986	791.0	164,237.52	207.63	986	810.6	242,526.34	299.19	966	912.4	- - -	4,969.08	4,969.08	335,297.39	340,266.47	372.87
Hyde-Addison-Jackson	800	343.1	156,317.05	455.60	800	334.9	160,743.04	479.97	780	442.7	519.57	------	519.57	198,801.72	199,321.29	450.24
Janney	610	519.8	161,088.58	308.38	610	484.8	186,445.25	384.56	600	542.5	549.19	— —	549.19	234,314.39	234,863.58	432.94
Keene & Annex	710	888.4	243,301.75	262.61	680	926.3	277,309.99	299.39	660	845.3	1,010.79	- -	1,010.79	318,782.83	319,793.62	378.32
Kenilworth	1,008	991.3	293,693.76	296.27	1,008	1,026.9	347,489.16	338.60	978	963.4	687.62	27,999.66	28,687.28	389,484.82	418,172.10	434.06
Kenilworth & Annex	560	612.4	177,575.31	289.97	560	767.0	227,900.14	297.13	510	917.4	645.45	10,500.24	11,145.69	348,211.54	359,357.23	391.71

[1] Name changed from the Adams Oyster Administrative Unit to the Oyster Adams Road Administrative Unit July 1, 1967

[2] New addition opened February 1967

[3] New addition opened Spring 1965

[4] New addition opened September 1965

[5] New replacement opened Fall 1964

[6] New opened Fall 1966

[7] Annex opened January 1965

[8] Opened September 1964

[9] Hendry addition opened September 1965

[a] Includes Title II (Library Books, and P.L. 313 for Military Road School

[b] Includes Title I and III Special Projects Money

[c] Includes regular D.C. Appropriations, P.O. Funds and Impact Aid Funds

[d] Re-assessment of elementary school building capacities completed Fall 1964

Chart B (Continued)

ELEMENTARY SCHOOLS

	FISCAL YEAR 1963				FISCAL YEAR 1965				FISCAL YEAR 1968							
	Bldg Capacity[1]	ADM	Expenditures D.C. Budget	Average Expenditures Per Pupil	Bldg Capacity[1]	ADM	Expenditures D.C. Budget	Average Expenditures Per Pupil	Bldg Capacity	ADM	Other Funds[2]	ESEA Special Program Expenditures[3]	Total ESEA Expenditures	Expenditures D.C. Budget[4]	Average Expenditures	Average Expenditures Per Pupil
Kimball	680	1,123.2	266,438.50	237.21	680	869.1	293,035.18	337.17	1,056	1,318.8	1,255.48		1,255.48	431,333.46	432,588.94	328.02
Kingsman	796	969.6	261,495.74	269.69	796	989.2	286,988.65	290.12	786	715.1	———	———	———	297,722.73	297,722.73	400.35
Lafayette	700	732.9	212,005.47	289.27	700	712.5	247,710.90	347.66	690	746.5	273.55	———	273.55	331,574.01	331,847.56	444.54
Langdon	748	809.6	231,549.60	286.00	748	919.2	269,725.93	293.44	738	675.2	193.43	———	193.43	319,843.87	320,037.30	473.90
Langston-Slater	520	619.4	173,701.99	280.44	520	658.9	230,630.83	350.02	510	515.3	641.54	18,740.58	19,382.12	218,061.11	237,443.23	460.79
LaSalle	1,010	1,075.8	333,910.36	310.38	1,010	1,023.4	420,620.29	411.00	990	1,029.5	306.86	450.00	756.86	460,093.89	460,850.75	447.65
Lenox & Annex	538	733.7	206,493.38	281.44	538	707.9	244,454.62	345.32	528	532.9	679.36	19,458.78	20,138.14	237,453.14	257,591.28	483.38
Lewis	758	812.0	53,443.79	65.82	758	827.8	213,778.17	258.25	738	712.9	316.59	20,115.80	20,432.39	281,163.52	301,595.91	423.06
Logan & Annex	650	930.0	253,532.75	272.62	650	857.2	293,029.60	341.85	660	755.5	252.78	42,369.24	42,622.02	310,899.23	353,521.25	467.93
Lovejoy	680	828.2	226,146.55	273.06	680	806.2	260,404.93	323.00	660	599.2	350.00	18,041.06	18,391.72	263,724.65	282,116.37	470.82
Madison-Taylor	480	556.4	161,586.96	290.42	480	628.1	199,548.76	317.70	480	541.0	617.96	18,972.53	19,590.49	210,721.30	230,311.79	425.71
Mann-Stoddert	650	435.9	176,632.79	405.21	650	430.2	232,155.75	539.65	600	493.9	820.23	3,239.56	4,059.79	234,689.44	238,849.23	483.60
Maury	508	764.3	191,415.98	250.45	508	820.2	250,015.91	304.82	498	541.7	536.37	16,847.00	17,236.37	207,334.35	224,570.72	414.57
McGogney[10]									1,056	1,352.7	1,984.49	16,606.02	18,590.51	395,383.89	413,974.40	306.04
Merritt	720	605.0	211,750.21	350.00	720	551.2	215,528.19	391.02	720	552.3	886.81	———	886.81	253,810.55	254,697.36	461.12
Meyer[11]					1,076	1,334.5	491,877.93	368.59	1,056	1,228.3	407.55	407.00	814.55	457,192.02	458,006.57	368.59
Miner	1,016	1,025.1	252,160.43	245.99	1,016	1,128.6	329,455.87	291.92	996	943.5	1,115.01	10,378.26	11,494.27	367,400.81	378,895.08	401.58
Monroe	520	918.9	225,800.86	245.73	520	676.8	225,121.95	332.63	510	612.7	216.93	456.50	673.43	299,435.65	300,109.08	489.81
Montgomery-Morse	790	939.8	269,172.64	286.41	790	893.9	351,574.10	393.30	780	810.1	1,042.09	18,799.97	19,842.06	347,082.08	366,924.14	452.94
Morgan and Annex	760	940.1	253,036.28	269.16	760	910.6	273,338.69	300.17	750	730.9	3,372.29	10,250.85	13,623.14	388,317.91	401,941.05	549.93
Moten	968	1,014.7	277,729.84	273.71	968	1,091.4	343,181.91	314.44	948	1,434.9	2,702.46	9,265.31	11,967.77	479,929.09	491,896.86	342.81
Mott	790	825.7	326,830.01	395.82	790	705.0	340,724.95	483.30	780	737.1	318.92	8,465.25	8,784.17	322,994.66	331,778.83	450.11
Murch	710	700.8	228,546.86	326.12	710	676.5	268,023.43	396.19	600	653.1	264.37	———	264.37	305,858.60	306,122.97	468.72
Nalle	800	847.1	213,926.81	252.54	800	243.5	224,940.30	349.56	780	895.2	396.64	———	396.64	315,759.54	316,156.18	353.17
Nichols Avenue	480	592.6	163,662.97	276.18	480	651.0	216,428.91	332.46	480	731.2	255.56	10,155.30	10,410.86	241,122.68	251,533.54	344.00
Noyes	728	784.5	218,181.71	278.12	728	819.6	280,446.57	342.17	708	659.1	800.28	113.40	913.68	258,732.73	259,646.41	393.94
Orr Randle Highlands	540	606.8	180,204.71	296.98	540	654.8	212,173.73	324.03	540	827.0	698.39	4,646.06	5,344.45	275,186.28	280,530.73	339.21
Oyster-Military Road[12]	*(Oyster is shown with Adams and Military Road with Takoma for FY 63 & FY 65.)*								270	318.4	8,188.26	———	8,188.26	114,735.88	122,924.14	386.68
Park View[13]	980	1,084.7	311,097.46	286.81	980	1,055.6	364,056.61	344.88	1,038	975.3	1,664.36	4,780.45	6,444.81	420,851.47	427,296.28	438.12
Patterson	1,090	1,054.7	281,336.91	266.75	1,090	1,026.4	325,028.46	318.53	1,050	1,292.0	371.89	132.30	504.19	478,197.29	478,701.48	379.51
Payne	688	830.9	272,771.12	328.28	688	871.9	323,508.51	371.04	678	833.8	310.58	———	310.58	331,907.37	332,217.95	398.44
Petworth	520	697.9	220,234.31	315.57	520	754.2	294,994.69	391.14	570	719.8	———	———	———	259,030.93	259,030.93	359.87
Plummer	1,076	1,290.5	303,467.18	235.15	1,076	1,209.7	367,590.80	303.87	1,056	1,146.9	423.92	———	423.92	387,902.84	388,326.76	338.59
Powell & Annex	866	974.7	241,176.85	274.44	866	948.8	294,513.51	310.41	846	900.2	925.10	———	925.10	360,552.22	361,477.32	401.49
Raymond[14]	580	745.2	216,693.77	290.79	580	759.8	252,443.46	332.25	1,056	1,000.0	1,031.61	117.50	1,138.51	384,563.11	385,711.62	385.71
Richardson	980	952.0	292,071.93	306.80	980	853.2	392,940.62	460.55	960	1,042.9	168.84	13,840.57	14,009.41	423,408.41	437,417.82	419.42
River Terrace	638	608.9	198,907.32	326.67	638	592.7	240,775.95	406.24	618	537.3	449.59	63.14	512.73	228,210.09	228,722.73	425.69
Rudolph[15]	848	866.9	229,313.67	264.52	848	905.4	287,277.93	317.29	1,068	1,081.9	1,106.65	...	1,106.65	384,618.40	385,719.05	356.82
Seaton, Perry	820	797.9	267,017.44	334.65	820	749.9	316,260.25	421.74	810	676.0	1,173.64	44,816.87	45,990.51	350,119.41	396,109.92	585.96
Shadd and Annex	860	924.0	282,268.42	305.49	860	829.7	345,594.61	416.53	840	875.8	702.80	4,756.73	5,459.53	365,343.95	370,803.48	423.39
Shepherd	460	487.6	144,716.79	296.79	460	514.7	168,348.07	327.08	450	541.1	236.74	...	236.74	226,718.35	226,955.09	419.43

[1] Bldg. Capacity opened Fall 1966.
[2] Shepherd opened September 1964.
[3] Oyster changed to Oyster Military Road Administrative Unit August 1967.
[4] Parkside - alterations and annex completed and opened 1965.
[5] Raymond addition opened Spring 1966.
[6] Rudolph addition opened Fall 1965.

[a] Includes Title II Library Books, and P.L. 313 for Military Road School.
[b] Includes Title I and II Special Project monies.
[c] Includes regular D.C. Appropriations, CIP-O Funds and Impact Aid Funds.
[d] Re-assessment of elementary school building capacities completed Fall 1964.

Chart B (Continued)

ELEMENTARY SCHOOLS

	FISCAL YEAR 1963				FISCAL YEAR 1965				FISCAL YEAR 1968							
	Bldg. Capacity	ADM	Expenditures D. C. Budget	Average Expenditures Per Pupil	Bldg. Capacity[d]	ADM	Expenditures D. C. Budget	Average Expenditures Per Pupil	Bldg. Capacity	ADM	ESEA Title II and Other Federal Funds[a]	ESEA Special Program Expenditures[b]	Total ESEA Expenditures	Expenditures D. C. Budget[c]	Total Expenditures	Average Expenditures per Pupil
Simmons	800	802.0	255,121.92	318.11	800	837.3	271,536.74	324.30	780	659.5	272.30	17,723.67	17,995.97	287,060.75	305,056.72	462.56
Simon	980	1,031.9	259,650.77	251.62	980	1,204.0	323,396.32	268.60	960	1,196.8	1,525.38	118.09	1,643.47	402,524.04	404,167.51	337.71
Smothers-Carver	860	859.5	302,807.69	352.31	890	888.9	346,886.50	390.35	480	956.0	944.10	3,841.50	4,785.60	401,077.95	405,863.55	424.54
Stanton & Annex	1,140	1,013.8	317,307.05	312.99	1,140	1,018.9	310,548.98	304.79	1,110	1,395.7	1,358.60	———	1,358.60	515,014.32	516,372.92	369.97
Sumner Stevens-Grant	1,160	731.9	254,415.85	347.61	1,160	643.2	314,577.46	489.08	1,140	694.7	1,288.09	1,869.32	3,157.41	351,957.60	355,115.01	511.18
Syphax	830	725.4	239,884.44	330.69	830	818.6	257,820.14	314.95	810	765.2	307.06	27,418.31	27,725.37	297,480.72	325,206.09	424.99
Takoma Military Rd[16]	520	501.3	199,517.24	398.00	520	601.0	240,430.75	400.05	510	597.2	602.90	———	602.90	239,331.35	239,934.25	401.77
Thomas	800	822.9	227,700.90	276.71	800	839.8	268,348.88	319.54	1,176	985.8	785.48	21,751.61	22,537.09	381,436.79	403,973.88	409.70
Thomson	580	570.4	191,159.37	335.13	580	598.3	233,767.04	390.72	570	527.6	598.58	2,162.93	2,761.51	219,585.91	222,347.42	421.43
Truesdell[17]	590	703.0	264,318.23	375.99	590	718.6	316,246.51	440.09	1,086	1,077.2	2,292.18	———	2,292.18	493,838.61	496,130.79	460.57
Turner	740	833.3	218,891.84	262.68	740	1,015.4	334,631.87	329.56	720	943.6	1,431.16	11,765.52	13,196.68	347,323.37	360,520.05	382.07
Tyler	722	864.8	223,293.47	258.20	692	798.1	259,918.83	325.67	1,182	955.0	1,045.27	26,984.33	28,029.60	366,890.09	394,919.69	413.53
Van Ness	860	962.1	237,376.03	246.73	860	1,011.1	293,639.95	290.42	840	884.0	454.32	15,807.12	16,261.44	321,144.48	337,405.92	381.68
Walker-Jones	830	901.8	247,617.65	274.58	830	876.4	293,263.30	334.55	810	657.4	300.46	21,488.95	21,789.41	281,829.22	303,618.63	461.85
Watkins	938	1,035.0	231,836.04	224.00	938	1,095.3	316,319.55	288.80	918	1,172.0	968.89	14,850.53	15,819.42	396,821.03	412,640.45	352.08
Webb[18]	836	945.6	244,797.49	258.88	836	934.0	329,559.44	352.85	1,056	988.8	768.68	———	768.68	401,763.52	402,532.20	407.09
West	520	585.2	180,068.28	307.70	520	610.5	204,601.89	335.47	510	591.2	236.35	———	236.35	262,814.75	263,051.10	444.94
Wheatley	640	714.0	192,065.58	269.00	640	765.0	262,432.51	343.05	1,146	894.9	653.81	7,297.93	7,951.74	352,526.32	360,478.06	402.81
Whittier	968	1,078.5	275,833.81	255.76	998	1,201.6	343,855.72	286.17	978	1,212.0	709.83	141.22	851.05	437,669.46	438,520.51	361.82
Wilson, J.O.	926	970.3	255,967.86	263.80	926	1,001.5	324,120.37	323.63	906	865.3	306.37	44,612.61	44,918.98	354,102.56	399,021.54	461.14
Woodridge[19]	460	570.8	184,536.46	323.29	580	594.8	222,134.18	373.46	570	607.0	280.99	———	280.99	245,545.95	245,826.94	404.99
Young	970	1,428.1	397,495.39	278.34	970	1,413.3	463,399.53	327.88	960	1,523.9	2,352.65	157.85	2,510.50	496,663.60	499,174.10	327.56
Total Elementary	79,715	85,530.6	24,435,824.86	285.70	84,038	89,946.7	30,135,713.72	335.04	89,006	94,440.5	94,910.07	1,005,271.06	1,100,181.13	37,131,830.46	38,231,011.59	404.82

[16] Military Road School transferred to the Oyster-Military Road Administrative Unit, August, 1967

[17] Truesdell addition opened Spring 1967

[18] Webb addition opened September 1966

[19] Woodridge addition opened September 1963.

[a] Includes Title II (Library Books) and P.L. 312 for Military Road School

[b] Includes Title I and III Special Projects money

[c] Includes regular D. C. Appropriations U.P.O. Funds and Impact Aid Funds

[d] Re-assessment of elementary school building capacities completed Fall, 1964

EXHIBIT B

AVERAGE PER PUPIL EXPENDITURES BY ADMINISTRATIVE UNITS

FISCAL YEAR 1968

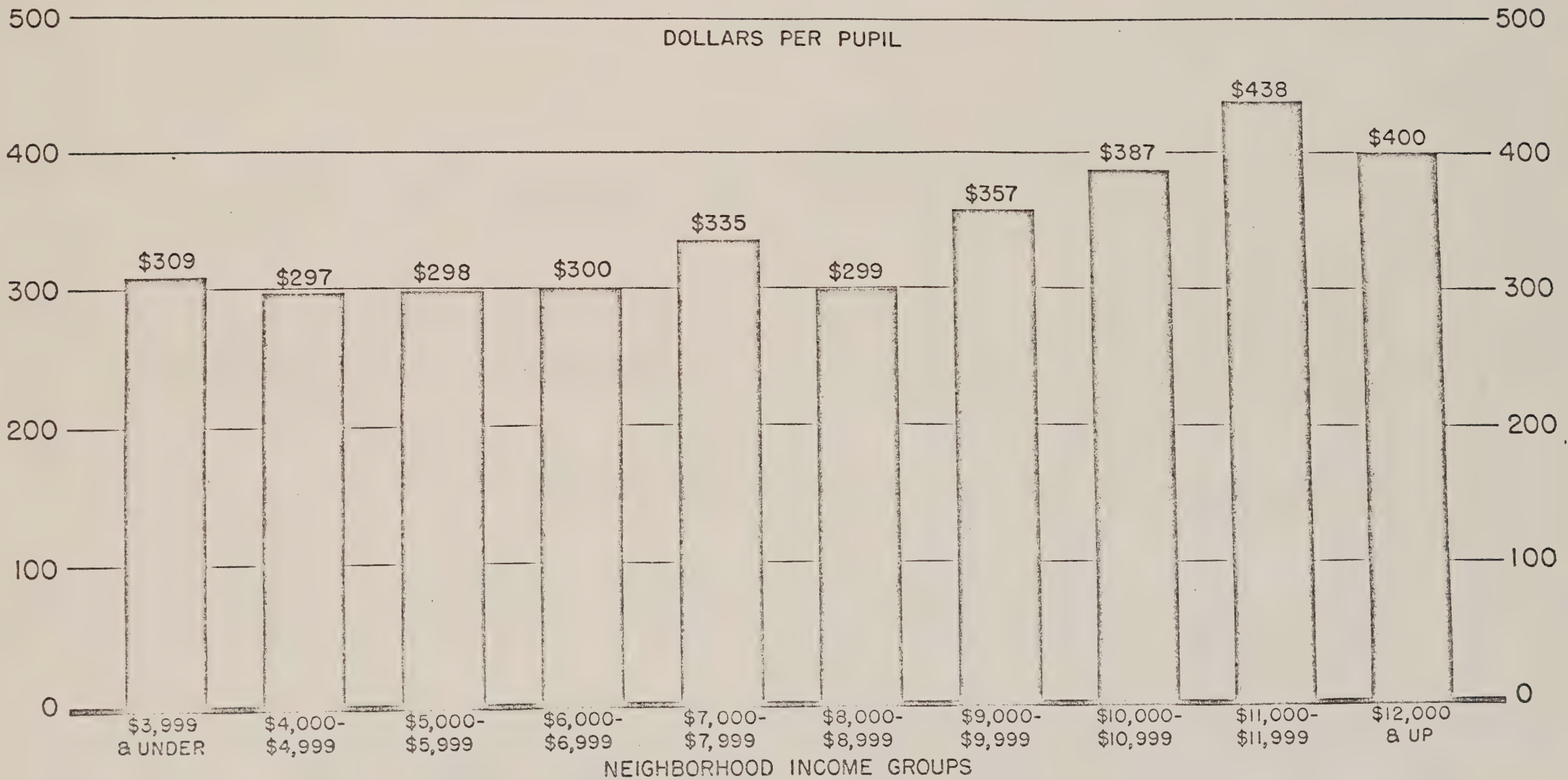
	ADM	General Fund Expenditures	ESEA Expenditures	Total Expenditures	Average Per Pupil Expenditure
Ward I					
Eckington	272.8	112,712.50	2,527.91	115,290.41	422.62
Gage	432.6	159,157.05	3,358.66	152,515.71	375.67
GAGE-ECKINGTON	705.4	271,869.55	5,936.57	277,806.12	393.83
Ward II					
Langston	279.5	111,709.24	10,371.72	122,080.96	436.78
Slater	235.8	106,351.87	9,010.40	115,362.27	489.24
LANGSTON-SLATER	515.3	218,061.11	19,382.12	237,443.23	460.79
Montgomery	590.6	239,282.69	13,944.72	253,227.41	428.76
Morse	219.5	107,799.39	5,897.34	113,696.73	508.87
MONTGOMERY-MORSE	810.1	347,082.08	19,842.06	366,924.14	452.94
Perry	360.4	212,082.00	24,485.27	236,567.27	656.40
Seaton	315.6	138,037.41	21,505.24	159,542.65	505.52
SEATON-PERRY	676.0	350,119.41	45,990.51	396,109.92	585.96
Grant	128.5	77,439.63	503.41	77,943.04	606.56
Stevens	337.3	166,853.21	1,645.92	168,499.13	499.55
Sumner	228.9	107,664.76	1,008.08	108,672.84	474.76
SUMNER-GRANT-STEVENS	694.7	351,957.60	3,157.41	355,115.01	511.18
Ward III					
Eaton	440.0	229,788.90	2,480.99	232,269.89	527.89
Hearst	284.1	111,930.12	1,340.09	113,270.21	398.70
EATON-HEARST	724.1	341,719.02	3,821.08	345,540.10	477.20
Hardy	236.0	122,981.47	151.08	123,132.55	531.75
Key	243.3	102,758.04	297.99	103,056.03	423.58
HARDY-KEY	479.3	225,739.51	449.07	226,188.58	471.91
Hyde	131.3	54,722.93	199.13	54,922.06	418.29
Fillmore	193.3	98,479.39	203.42	98,682.81	510.52
Jackson	118.1	45,599.40	117.02	45,716.42	387.10
HYDE-FILLMORE-JACKSON	442.7	198,801.72	519.57	199,321.29	450.24
Mann	226.3	119,100.19	2,387.05	121,487.24	456.20
Stoddert	227.6	115,589.25	1,772.74	117,361.99	515.65
MANN-STODDERT	493.9	234,689.44	4,159.79	238,849.23	483.60
Military Road	44.9	55,424.70	21,044.23	76,468.93	1,703.09
Oyster	273.5	114,735.88	142.06	114,877.94	420.77
OYSTER-MILITARY ROAD	318.4	170,160.58	21,186.29	191,346.87	600.96

	ADM	General Fund Expenditures	ESEA Expenditures	Total Expenditures	Average Per Pupil Expenditure
Brookland	369.3	155,779.89	420.54	156,200.43	422.96
Slowe	829.6	284,747.73	1,372.65	286,120.38	344.84
BROOKLAND-SLOWE	1,198.9	440,527.62	1,793.19	442,320.81	368.94
Ward VI					
Blair	218.7	103,716.20	5,697.31	109,683.51	501.52
Brent	221.5	98,895.25	6,033.40	104,928.65	474.15
BLAIR-BRENT	440.2	202,611.45	12,000.71	214,612.16	487.53
Blow	205.8	93,209.24	14,090.71	107,299.95	521.38
Pierce	253.8	113,461.55	17,584.40	131,045.95	516.34
BLOW-PIERCE	459.6	206,670.79	31,675.11	238,345.90	518.59
Edmonds	248.4	135,388.52	251.46	135,639.98	546.05
Peabody	274.2	185,597.29	7,274.20	192,871.49	703.40
EDMONDS-PEABODY	522.6	320,985.81	7,525.66	328,511.47	628.61
Hayes	220.2	107.494.81	8,084.44	115,597.25	524.88
Ludlow	203.3	83,718.15	7,225.09	90,943.24	447.34
HAYES-LUDLOW	423.5	191,212.96	15,309.53	206,522.49	487.66
Madison	274.1	110,293.64	9,981.27	120,279.91	438.82
Taylor	266.9	100,427.73	9,609.22	110,036.95	412.28
MADISON-TAYLOR	541.0	210,721.37	19,590.49	230,311.86	425.72
Ward VII					
Carver	322.9	139,650.58	1,298.43	140,949.01	436.51
Smothers	633.1	261,427.37	3,487.17	264,914.54	418.4[illegible]
SMOTHERS-CARVER	956.0	401,077.95	4,785.60	405,863.55	424.54
Orr	371.4	121,699.78	2,680.41	124,380.19	334.90
Randle Highlands	445.6	153,486.50	2,664.04	156,150.54	350.43
ORR-RANDLE HIGHLANDS	827.0	275,186.28	5,344.45	280,530.73	339.21

CHART 1

D.C. PUBLIC SCHOOLS

AVERAGE EXPENDITURE PER PUPIL IN THE ELEMENTARY SCHOOLS BY NEIGHBORHOOD INCOME GROUPS, 1965

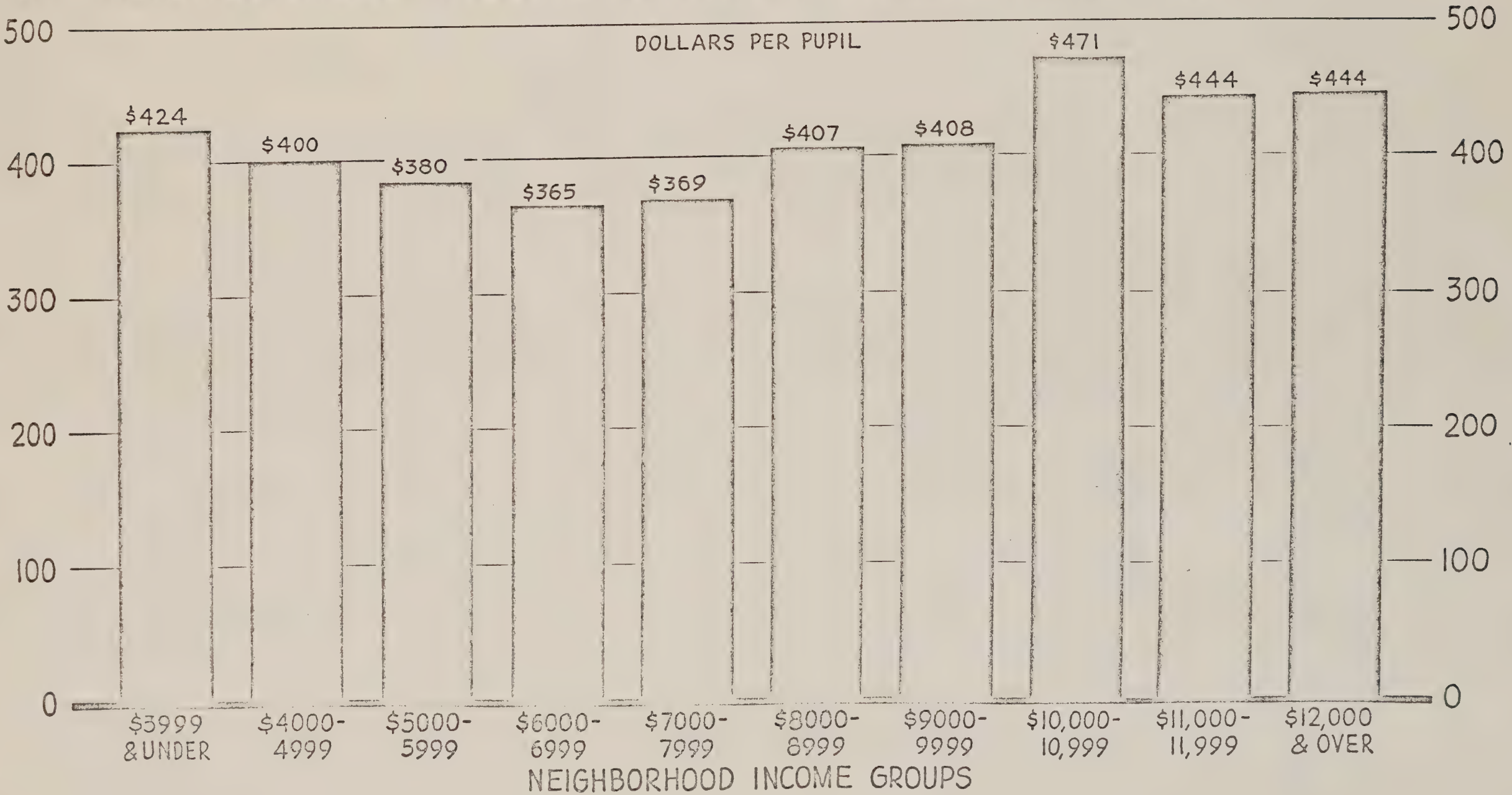


Source: House Comm. on Education & Labor

CHART 2

D.C. PUBLIC SCHOOLS

AVERAGE EXPENDITURE PER PUPIL IN THE ELEMENTARY SCHOOLS BY NEIGHBORHOOD INCOME GROUPS, FISCAL YEAR 1968*

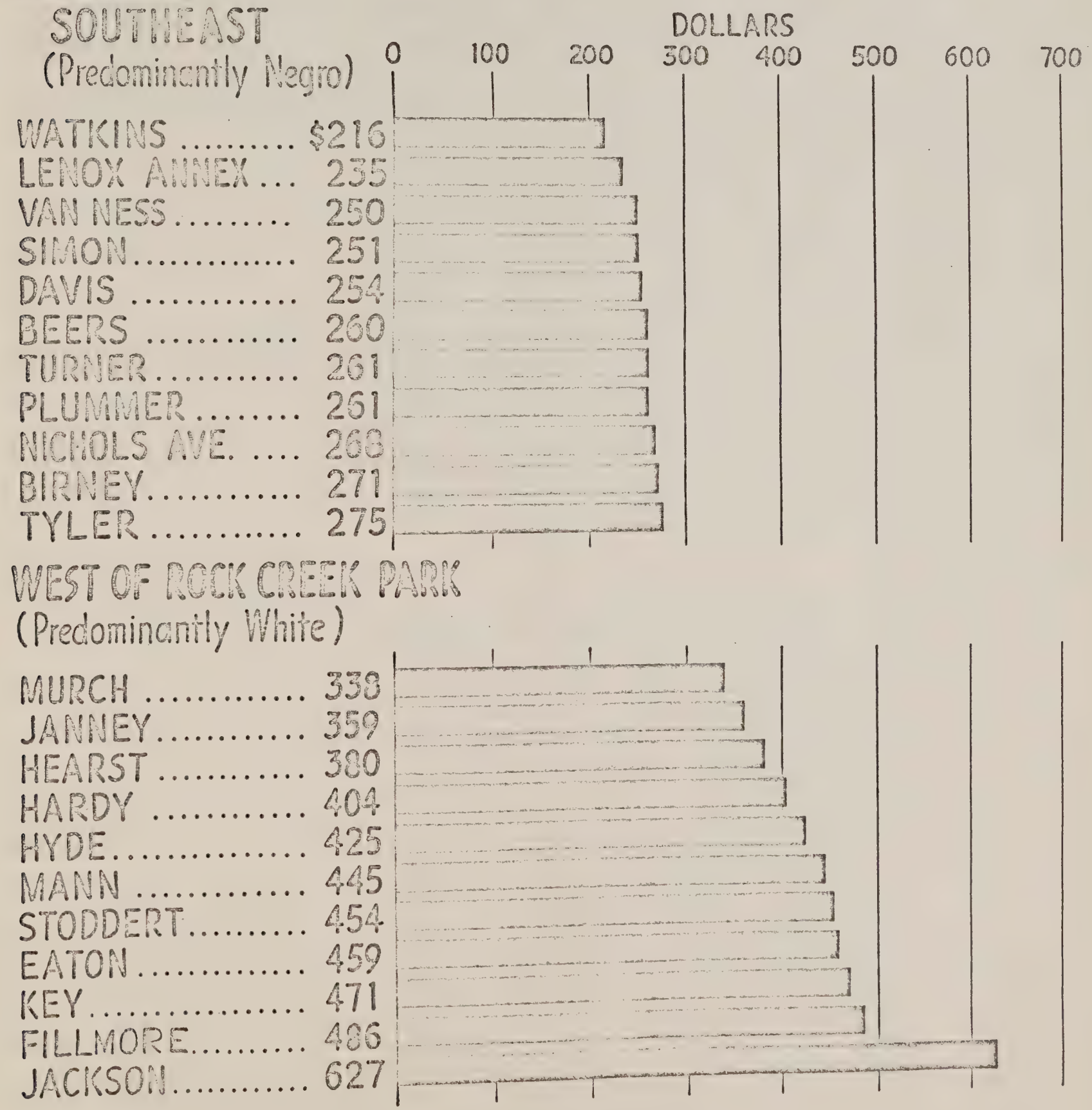


* Regular budget funds, UPO Funds, and Impact Aid Funds.

SOURCE: D.C. PUBLIC SCHOOLS

CHART 3

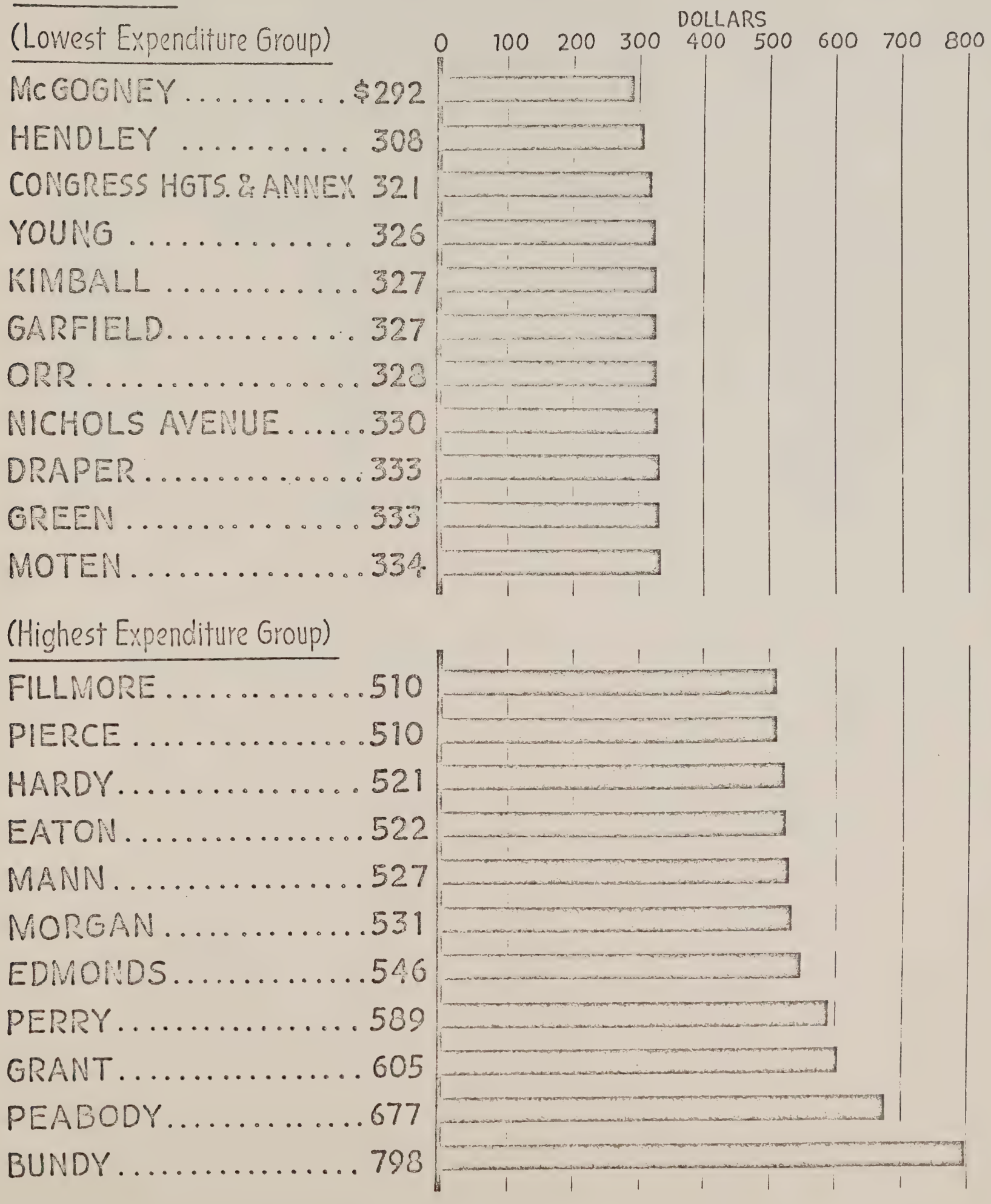
PER CAPITA EXPENDITURES PER PUPIL IN SELECTED D.C. ELEMENTARY SCHOOLS 1963-64



Source: D.C. Board of Education

EXPENDITURES PER PUPIL IN SELECTED D.C. ELEMENTARY SCHOOLS*

Based on 1968 Regular Budget Funds**



*In 1963-64 the spread between the highest and lowest schools was $411. The above data from 1968 show that the spread has increased to $506.

**Also includes impact aid funds and UPO funds.

Table 1

Fiscal Year 1968

PER PUPIL EXPENDITURES *

West of Rock Creek Park

School	Avg. Daily Membership	Total Exp.	Avg./Pupil
Eaton	440	229,789	522.25
Fillmore	193	98,479	510.25
Hardy	236	122,981	521.11
Hearst	284	111,930	394.12
Hyde	131	54,723	417.73
Jackson	118	45,599	386.43
Janney	542	234,314	432.31
Key	243	102,758	422.87
Lafayette	746	331,574	444.47
Mann	226	119,100	526.99
Murch	653	305,859	468.39
Oyster	273	114,736	420.23
Stoddert	228	115,589	506.97
Total	4,313	1,967,431	460.30

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* Includes regular budget funds,
impact aid funds and UPO funds.

Fiscal 1968

PER PUPIL EXPENDITURES *

East of Anacostia River

School	Avg. Daily Membership	Total Exp.	Avg./Pupil
Aiton	1,064	366,123	344.10
Beers	921	335,036	363.77
Benning	503	182,558	359.37
Birney	1,092	406,542	372.29
Burrville	561	249,885	445.43
Carver	323	139,651	432.36
Congress Heights	901	289,583	321.40
Davis	1,543	575,097	372.71
Draper	1,394	463,772	332.69
Drew	981	359,705	366.67
Garfield	1,068	348,932	326.76
Green	1,360	452,218	332.51
Harris	1,162	404,046	347.72
Hendley	1,527	469,896	307.72
Houston	912	335,397	367.65
Kenilworth	963	389,485	404.45
Ketcham	917	348,211	379.73
Kimball	1,319	431,333	327.02
McGogney	1,353	395,384	292.23
Merritt	552	253,811	459.80
Moten	1,435	479,929	334.45
Nalle	895	315,759	352.80
Nichols Avenue	731	241,123	329.85
Orr	371	121,700	328.03
Patterson	1,292	478,197	370.12
Plummer	1,147	387,903	338.19
Randle Highlands	446	153,486	344.14
Richardson	1,043	423,408	405.95
River Terrace	537	228,210	424.97
Shadd	876	365,344	417.06
Simon	1,197	402,524	336.28
Smothers	633	261,427	413.00
Stanton	1,396	515,014	368.92
Thomas	986	381,437	386.85
Turner	944	347,323	367.93
Total	34,350	12,299,399	358.06

---

* Includes regular budget funds,
impact aid funds and UPO funds.

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. September Term, 19

Hobson, et al
v
Hansen et al

CA 82-66

TERMINATION OF DESIGNATION OF CIRCUIT JUDGE
FOR SERVICE IN A DISTRICT COURT
WITHIN HIS CIRCUIT

On January 13, 1966, the case of Hobson, et al. v. Hansen, et al., Civil Action No. 82-66, was filed in the District Court, naming, among others, all the District Judges of this circuit as defendants. At that time, pursuant to 31 D. C. Code § 101, all District Judges had participated in the selection of the School Board for the District of Columbia, and this case included an attack on the constitutionality of 31 D. C. Code § 101. On the request of the Chief Judge of the District Court for the assignment of a judge to try this case, on January 17, 1966, I designated the Honorable J. Skelly Wright, United States Circuit Judge for the District of Columbia Circuit.

Now several District Judges have been appointed since 31 D. C. Code § 101 was repealed. Under the circumstances, the public interest does not require the assignment of a Circuit Judge to this case at this time.

It is ORDERED, therefore, that the designation of the Honorable J. Skelly Wright to act as a judge of the United States District Court for the District of Columbia in the case of Hobson, et al. v. Hansen, et al., Civil Action No. 82-66, is terminated.

Chief Judge
District of Columbia Circuit

Dated: August 6, 1969

(M)

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

JULIUS W. HOBSON, et al. :

Plaintiffs :

v. : Civil Action No. 82-66

CARL F. HANSEN, et al. :

Defendants. :

MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION FOR EXTENSION OF TIME

Rule 6(b), Federal Rules of Civil Procedure.

/s/ Hubert B. Pair
HUBERT B. PAIR
Acting Corporation Counsel,D.C.

/s/ John A. Earnest
JOHN A. EARNEST
Assistant Corporation Counsel,D.C.

/s/ Matthew J. Mullaney,Jr.
MATTHEW J. MULLANEY, JR.
Assistant Corporation Counsel,D.C.
Attorneys for Defendants
District Building
Washington, D.C. 20004

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

JULIUS W. HOBSON, et al. :

Plaintiffs :

v. : Civil Action No. 82-66

CARL F. HANSEN, et al. :

Defendants :

MOTION FOR EXTENSION OF TIME

Come now the attorneys for defendants herein and respectfully request an extension of time to and including September 30, 1969, within which to respond to the motion of plaintiff for further relief and for enforcement of the decree filed herein on the grounds that the press of other business prevents counsel primarily assigned to this action from giving adequate attention to the motion within the time allowed, many members of the Administration and the Board of Education of the District of Columbia are on vacation, and the Board of Education is not scheduled to meet until September 17,1969.

/s/ Hubert D. Pair
HUBERT D. PAIR
Acting Corporation Counsel, D.C.

/s/ John A. Earnest
JOHN A. EARNEST
Assistant Corporation Counsel,D.C.

/s/ Matthew J. Mullaney,Jr.
MATTHEW J. MULLANEY, JR.
Assistant Corporation Counsel,D.C.
Attorneys for Defendants
District Building
Washington, D. C. 20004

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion for Extension of Time with Memorandum of Points and Authorities in Support Thereof was mailed, postage prepaid, to Herbert O. Reid, Sr.,Esq., Attorney for Movant, Howard University School of Law, 6th and Howard Place, N.W. 20001 and to Joseph M. Hannon, Assistant United States Attorney, U.S. District Court House, Washington, D.C., 2001 this 11th day of August, 1969.

Assistant Corporation Counsel,D.C.
Attorney for Defendants
District Building
Washington, D.C. 20004

1st Draft

DRAFT -- 7/18/69

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF COLUMBIA

HOBSON, et al

vs.

HANSEN, et al

_____

MOTION FOR ENFORCEMENT OF DECREE

1. This Court entered a judgment and decree on June 19, 1967. Said judgment and decree were affirmed on appeal by the United States Court of Appeals for the District of Columbia, as Smuck vs. Hobson (#21,167), and Hansen vs. Hobson (21,168) on January 21, 1969.

2. Movant Julius Hobson is an original plaintiff in this instant litigation and has since said original decree and judgment and concerned himself in great detail with the enforcement or non-enforcement of said decree. He is currently a member of the elected Board of Education of the District of Columbia.

3. Defendants, excluding Movant, have failed and refused to implement this Court's judgment and decree. Said failure and refusal in part has occurred in the following areas: (1) unequal expenditure per pupil; (2) unequal distribution, use and administration of special projects; (3) unequal distribution of essential equipment in the public schools; (4) discrimination in curriculum;

(5) unequal distribution of books; (6) iunequal availability of librqry facilities and (7) discrimination in assignment of teachers, particularly on a temporary against a permanent ~~/~~ status.

4. Movant respectually requests that~~/~~ this Court set a date for hearing in the immediate future ~~/~~ on the above listed matters~~/~~ so that he may present evidence to the Court ~~/~~ in that regard, together with an opportunity for defendants to answer said evidence.

Attorney for Movant

DRAFT -- 7/18/69

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF COLUMBIA

HOBSON, et al

vs.

HANSEN, et al

_____

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4. Movant respectually requests that~~t~~ this Court set a date for hearing in the immediate future ~~t~~ on the above listed matters~~,~~ so that he may present evidence to the Court ~~t~~ in that regard, together with an opportunity for defendants to answer said evidence.

Attorney for Movant

7/24/69

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF COLUMBIA

HOBSON, et al	)	
	)	
vs.	)	No. _____
	)	
HANSEN, et al	)	

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_____

Attorney for Movant

Secretarial Pool
Room 154 8:30

7/24/69

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF COLUMBIA

HOBSON, et al)
)
vs.) No. _____
)
HANSEN, et al)

MOTION FOR ENFORCEMENT OF DECREE

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4. Movant respectfully requests that this Court set a date for hearing ~~in the immediate future~~ on the above listed matters so that he may present evidence to the Court in that regard, together with an opportunity for Defendants to answer said evidence.

Attorney for Movant

Sign on Kunstler Order

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

JULIUS W. HOBSON, et al., :

Plaintiffs :

v. : Civil Action No. 82-66

CARL F. HANSEN, et al., :

Defendants. :

MOTION OF DEFENDANTS TO VACATE THE DECREE AND DISMISS THE COMPLAINT

Defendants respectfully move the Court to vacate the decree entered herein and to dismiss the complaint. As grounds therefor defendants respectfully refer the Court to the reports of compliance filed by defendants on October 2, 1967 and January 2, 1968, and the memorandum of points and authorities filed in support of defendants' motion which demonstrate substantial compliance with the decree of the Court by these defendants.

Hubert B. Pair
HUBERT B. PAIR
Acting Corporation Counsel, D.C.

John A. Earnest
JOHN A. EARNEST
Assistant Corporation Counsel, D.C.

Matthew J. Mullaney, Jr.
MATTHEW J. MULLANEY, JR.
Assistant Corporation Counsel, D.C.
Attorneys for Defendants
District Building
Washington, D.C. 20004

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

JULIUS W. HOBSON, et al., :

Plaintiffs :

v. : Civil Action No. 82-66

CARL F. HANSEN, et al., :

Defendants.

MEMORANDUM OF POINTS AND AUTHORITIES IN OPPOSITION TO PLAINTIFF HOBSON'S AMENDED MOTION FOR FURTHER RELIEF AND ENFORCEMENT OF DECREE AND IN SUPPORT OF DEFENDANTS' MOTION TO VACATE THE DECREE AND DISMISS THE COMPLAINT

The defendants herein oppose plaintiff Hobson's motion for further relief and for enforcement of the decree of the Court. Defendants respectfully refer the Court to their original opposition and affidavit of Gertrude L. Williamson, filed on September 30, 1969, to plaintiff Hobson's motion for further relief and for enforcement of decree filed on or about July 30, 1969.

Standing

Plaintiff Hobson lacks standing to move the Court for further relief and for enforcement of the decree. At this time the Court should reexamine the direct interest of plaintiff Hobson in these proceedings, his position having changed materially since the complaint herein was filed. Williams v. Iberville Parish School Board, 273 F. Supp. 542 (E.D.La.1967).

The complaint in this civil action was filed on January 13,1966. Julius W. Hobson sued individually and on behalf of his minor children Jean Marie Hobson and Julius W. Hobson, Jr. The complaint identified Mr. Hobson as a guardian and parent of the infant plaintiffs and one who was required by law to send the infant plaintiffs to public or private schools.

Defendants allege that the records of the Domestic Relations Branch of the District of Columbia Court of General Sessions reveal that Carol J. Hobson, the wife of Julius W. Hobson, obtained a judgment of absolute divorce from Mr. Hobson on April 3, 1968, and that custody of the Hobson's minor children was awarded without opposition to Mrs. Hobson, subject to the visitation rights of Mr. Hobson. It is further alleged that Julius W. Hobson, Jr. has graduated from the public schools of the District of Columbia and that Jean Marie Hobson is beyond elementary school age and her credentials are now at Paul Junior High School.

The essence of the constitutional right to equal protection is that it is a personal one, and the fact that someone else may be personally affected does not entitle one not personally affected to seek judicial relief. McCabe v. Atchison, T & S.F. Ry. Co., 235 U.S. 151 (1914); Bailey v. Patterson, 369 U.S. 31 (1962). It is clear that only a person specifically aggrieved or injured by a violation of a court decree may seek enforcement of the decree. See Annotation at 61 A.L.R. 2d 1083.

Impact Aid Funds

The expenditure of impact aid funds is not legally restricted. Public Law 81-874, 64 Stat. 1100, 20 U.S.C. 236 et seq. and Public Law 81-815, 64 Stat. 967, 20 U.S.C. 631, et seq. were enacted in September, 1950, to provide financial assistance to jurisdictions whose local educational institutions were burdened by the impact of certain federal activity. These acts contained no requirement that the states spend the

funds in under privileged areas. The District of Columbia was not at that time made eligible for entitlements under these laws, except for a very limited amount under Title 1 of Public Law 81-815, for a survey of school building needs.

On October 16, 1964, Public Law 88-665, 78 Stat. 1100, was enacted which enabled the District of Columbia to receive the same entitlements under impact aid as the several states. This was done by expanding the definitions of "State"to include the District of Columbia. 20 U.S.C. 244(8) and 20 U.S.C. 645(13). The 1964 Act contains no restrictions on the expenditure of funds. As mentioned above, there is no requirement in the original impact aid legislation that states spend the funds in under privileged areas. Consequently, there is no restriction in the United States Code which differentiates the District of Columbia from other states in the expenditure of impact aid funds.

The Conference Report to accompany the 1964 Act, dated September 30,1964, includes the following language:

> "It is the intention of the conferees that the Federal impact funds to be received by the District under Public Law 874 be used by the Board of Education solely for educational purposes, and that they be in addition to the funds made available for education in the District of Columbia budget. It also is the opinion of the conferees that insofar as is consistent with good educational administration, these funds be used to improve the quality and standards of the educational offerings in the underprivileged attendance areas of the city. The Superintendent of Schools is requested to report to the Senate Committee on Labor and Public Welfare and the House Committee on Education and Labor on the ways in which the availability of these funds during the year has improved the educational program for the children in the low income areas."

This language was referred to on the floor of the Senate in an apparent effort to settle a disagreement within the Congress on whether the House Appropriations Committee could earmark impact aid funds for specific uses. The debate would seem to indicate that while the Appropriations Committee may ask for any information it wants from the District of Columbia authorities, the jurisdiction of the Appropriations Committee does not extend to direct control of the purposes for which such moneys shall be expended. See Congressional Record, Senate 16096-16098, July 13,1965.

In July, 1965, the report requested in the Conference Report to be submitted to the Senate Committee on Labor and Public Welfare and the House Committee on Education and Labor was submitted by the D.C. Public Schools. It is important to note that not all items in that report were for expenditures in underprivileged areas. Twenty-four percent of the funds, which amounted to $600,000, was spent on a city-wide basis to correct system-wide textbook deficiencies. No objections were raised to this report. No further reports were required or requested.

In an opinion dated August 12,1969, the Corporation Counsel, D.C., concludes that the use of impact aid funds is not legally restricted to the purposes expressed in the Conference Report. Hence, the defendants may, in their discretion, use impact aid funds for any educational purpose and are not restricted to expenditures to improve educational offerings in under privileged areas of the city. The defendants do choose to expend the bulk of the impact aid funds as suggested in the Conference Report. It is not improper,

however, for the defendants to combine impact aid entitlements and D.C. appropriation funds. Plaintiff's allegations to the contrary fail to state a legal cause of action.

Per Pupil Expenditure

The scope of this lawsuit and the decree of the Court included the operation of the entire public school system of the District of Columbia, the elementary, junior high and senior high school levels. As a member of the Board of Education and Chairman of the Committee to Study the Implementation of the Wright Decree, Hobson was supplied per pupil expenditures for the elementary, junior high and senior high schools on May 26,1969. Hobson's motion, however, addresses itself solely to the elementary schools of the District of Columbia, finding no fault with the per pupil expenditures at the junior high and senior high school levels. Yet, it is inconceivable that defendants would intentionally discriminate in the allocation of educational offerings at the elementary school level only. Plaintiff has not proven any intent to discriminate. Moreover, the evidence as arrayed by Hobson demonstrates that a difference of only $20.00 per pupil exists between the highest and lowest income schools (Plaintiff's Chart 2). The amount is de minimus and is evidence of even handed treatment and not discriminatory action by defendants.

The mere fact that the per pupil expenditure varies within the elementary school level does not state a cause of action. Dandridge v. Williams, ____U.S. _____(decided April 6,1970) 38 L.W. 4277; McInnis v. Shapiro, 293 F. Supp. 327 (N.D. Ill. 1968), affirmed sub nom. 394 U.S. 322 (1969).

In Dandridge, appellees contended that Maryland's regulations under the Aid to Families with Dependent Children ("AFDC") program, 42 U.S.C. Section 601, et seq., violated the Equal Protection Clause of the Fourteenth Amendment. Each eligible family's grant is determined upon the number of children in the family and the circumstances under which the family lives, but the upper limit of the grant which any one family may receive is either $250 or $240, depending on where the family lives, regardless of the number of dependent children. Therefore, larger families receive proportionately less per member than do smaller families under the Regulations.

Rejecting appellees' contention that this policy violated their equal protection rights, the Court stated at p. 4281:

> "* * * here we deal with state regulation in the social and economic field not affecting freedoms guaranteed by the Bill of Rights, and claimed to violate the Fourteenth Amendment only because the regulation results in some disparity in grants of welfare payments to the largest AFDC families. For the Court to approve the invalidation of state economic or social regulation as 'overreaching' would be far too reminiscent of an era when the Court thought the Fourteenth Amendment gave it power to strike down state laws 'because they may be unwise, improvident, or out of harmony with a particular school of thought.' * * *
>
> "In the area of economics and social welfare, a State does not violate the Equal Protection Clause merely because the classifications made by its laws are imperfect. If the classification has some 'reasonable basis' it does not offend the Constitution simply because the classification 'is not made with mathematical nicety or because in practice it results in some inequality.' * * * 'The problems of government are practical ones and may justify, if they do not require, rough accommodations - illogical, it may be, and unscientific.' * * * 'A statutory discrimination will not be set aside if any state of facts reasonably may be conceived to justify it.' * * * the Fourteenth Amendment gives the federal courts no power to impose upon the States their views of wise economic or social policy."

The Dandridge decision is in harmony with the rationale set forth in McInnis v. Shapiro, supra. In McInnis, elementary and high school students within four districts of Cook County, Illinois challenged the constitutionality of an Illinois statutory scheme that permitted variations of as much as 300% in the per pupil expenditure in the 1966-67 school year. The Court refused to apply to education expenditures a doctrine similar to the close scrutiny given laws which infringe First Amendment rights. Assuming that a more equitable distribution scheme could probably be devised, the Court stated:

> "* * * the allocation of public revenues is a basic policy decision more appropriately handled by a legislature than a court. * * *"

The Court went on to cite language from McGowen v. Maryland, 366 U.S. 420, 425, 428 (1961), that:

> "[T]he Fourteenth Amendment permits the States a wide scope of discretion in enacting laws which affect some groups of citizens differently than others. The constitutional safeguard is offended only if the classification rests on grounds wholly irrelevant to the achievement of the State's objective. State legislatures are presumed to have acted with their constitutional power despite the fact that, in practice, their laws result in some inequality."

And also cited language from Metropolis Theatre Co. v. City of Chicago, 228 U.S. 61, 69-70, that:

> "To be able to find fault with a law is not to demonstrate its invalidity. It may seem unjust and oppressive, yet be free from judicial interference. The problems of government are practical ones and may justify, if they do not require rough accommodations - illogical, it may be, and unscientific. * * * Mere errors of government are not subject to judicial review. It is only its palpably arbitrary exercises which can be declared void under the Fourteenth Amendment."

The Court pointed out at page 334 that there is no denial of Fourteenth Amendment rights unless plaintiffs are able to demonstrate "either an arbitrary exercise of legislative power or an invidious discrimination. * * *" The Court concluded that:

> "Even if the Fourteenth Amendment required that expenditures be made only on the basis of pupils' educational needs, this controversy would be non-justiciable. * * * there are no 'discoverable and manageable standards' by which a court can determine when the Constitution is satisfied and when it is violated.
>
> "The only possible standard is the rigid assumption that each pupil must receive the same dollar expenditures. Expenses are not, however, the exclusive yardstick of a child's educational needs. * * * The desirability of a certain degree of local experimentation and local autonomy in education also indicates the impracticability of a single, simple formula. Effective, efficient administration necessitates decentralization so that local personnel, familar with the immediate needs, can administer the school system. * * * Even if there were some guidelines available to the judiciary, the courts simply cannot provide the empirical research and consultation necessary for intelligent educational planning. * * *" Id at 335, 336.

The dominant ingredient in an educational offering and in the per pupil expenditure is the classroom teacher, but the evaluation of a teacher in a given educational environment defies quantitative analysis and is wisely left to the administration of the public school systems. For example, included in the current collective bargaining contract between the Board of Education and the Washington Teachers Union are ten items which "shall be among those used as a basis for evaluation of a classroom teacher":

> "1. knowledge of subject matter;
> 2. ability to communicate with students;
> 3. knowledge of materials and techniques in his or her field;
> 4. knowledge of and rapport with students and control of classroom;

5. willingness to innovate new ideas and techniques, and to use instruction time efficiently;
6. method for evaluating students and meeting their needs;
7. ability to adjust to situations (teaching levels and readiness levels of students);
8. evidence of lesson planning and preparation;
9. attendance and regularity at post of duty including being available both during the school day and after pupils are dismissed for the day for conferences concerning pupils, and/or professional matters;
10. performance in building responsibility."

To decree a strict equalization of per pupil expenditures at the elementary school level is to substutute a dollar sign having no rational relationship to the ability of a classroom teacher to perform in his assignment for the experienced judgment and discretion of a school administrator taking into account the criteria mentioned above. Such an order would severely damage the educational program in the District of Columbia public schools. Plaintiff's motion establishes no legal predicate for such action by this Court.

Overcrowding

The defendants have continued to press the "good faith effort" which the Court noted (p. 432) to eliminate overcrowding and inadequate school facilities. Defendants have been particularly concerned with the elimination of overcrowding and have assigned the highest priority in capital budget considerations to the Northeast and Anacostia regions of the city.

In August, 1966, the Board of Education adopted the following priorities with reference to the Public Schools Building Program.

Priority I

The elimination of overcrowding - The criteria for overcrowding is the excess of pupil membership over the capacity of the buildings at the 30:1 pupil/ teacher ratio in an area for elementary schools. In the secondary schools the ratio of 25:1 is used.

Priority II

The replacement of inadequate school structures that cannot be suitably and economically modified in accordance with current educational criteria.

Priority III

The modernization of existing school structures which can be suitably and economically modified.

Priority IV

The provision of the additional seats needed to reach the 25-pupil maximum class size standard adopted by the Board of Education on April 20, 1966.

Subsequently, these priorities were modified in action taken by the Board of Education on March 31, 1969. The sense of this action was that Areas 9 and 14 had highest priority for elementary schools, Area 7 for junior high schools, and Area 5 for senior high schools.

The fiscal year 1970 and 1971 Capital Outlay Budgets reflect these priorities.

An educational park feasibility study costing $630,000.00 was approved by the Board as its second priority item in the fiscal year 1970 budget.

While its efforts to eliminate overcrowding through construction of new facilities continue, defendants have undertaken to bus volunteering elementary school children from overcrowded schools not only to elementary schools west of Rock Creek Park as ordered by the Court but to under capacity schools east of Rock Creek Park as well.

During the school year 1968-69, approximately 1,700 elementary school pupils were bussed from over-capacity schools to under-capacity schools. Approximately 1,400 elementary school pupils were bussed to under-capacity schools during the 1969-70 school year.

At the elementary school level, substantial equalization of enrollment-capacity figures must be primarily based upon new school facilities. It is not possible to redraw elementary school boundaries and effect substantial equalization of enrollment-capacity because of the concentration of overcrowding in certain parts of the city, the size of elementary school structures, the size of elementary school boundary regions, and the age of elementary school pupils. Contrast this with the substantial equalization of secondary school enrollment-capacity figures by altering school boundaries which can be and was accomplished at the junior and senior high school levels.

There, pursuant to the long-range pupil assignment plan submitted on January 2,1968, a survey of secondary schools showed that some schools had enrollments which far exceeded their capacities and others had enrollments which were under-capacity. To correct this condition, a School Boundary Committee, composed of school and community personnel, was established to examine school boundaries and recommend changes. Several boundary maps for the junior and senior high school levels were constructed, published in the press and submitted to the public in a series of meetings in the senior high schools. Thereafter, the Boundary Committee

recommended to the Board of Education certain school boundaries in an effort to equalize the use of school facilities throughout the city and to improve racial, economic and social integration. The new boundaries were approved by the Board on May 8, 1968 and have been revised from time to time as enrollment-capacity figures dictate.

The revised school boundaries survived a challenge in the District Court in August, 1968 in the case of Virginia Morris, et al. v. William Manning, et al., Civil Action No. 2134-68.

The foregoing approach to the equitable elimination of overcrowding in the schools of the District of Columbia represents a rational approach chosen by those charged with the supervision and operation of the public schools of the District of Columbia and these defendants should be permitted by the Court to pursue this course of action.

Teacher Assignment

The defendants have carried out assignment and transfer procedures as stated in the compliance reports of October 2, 1967 and January 2, 1968. Target schools have been established and assignments and transfers have been controlled by the target school data. A substantial recruitment effort has been undertaken to obtain a significant influx of white personnel into the school system.

Beginning in November, 1967, the administrative staff secured from the principals of the elementary, junior high and senior high schools, reports on the racial composition of their faculties as well as any changes that might have occurred since the previous report. A practical standard for

measuring results of efforts to achieve equitable racial balance was established using the proportion of Negro to white teachers in the school system on October 19, 1967. On that date, Negroes constituted 85.0% of the faculties in the elementary schools, 77.2% of the junior high schools, and 63.0% in the senior high schools. Any school within ten percent of the figure at its school level, either above or below, was thought to present no immediate problem of in-balance. Any school with a proportion of Negro teachers ten percent or more below this percentage level was considered a target school for the assignment of Negro teachers only. Any school with a proportion of Negro teachers more than ten percent above the percentage was considered a target for assignment of white teachers only, until such time as it reached the non-target area. The non-target areas thus ranged from 75.0% to 94.0% in the elementary schools; 67.2% to 86.2% in the junior high schools; and 53.0% to 72.0% in the senior high schools.

The target status is continually changed to conform to the percentage of teachers, Negro and white, at each level found in the most recent membership report. This means that adjustments can be made more frequently, since the status established as a result of one report would govern actions only until the results of the next membership report could be determined. On June 6, 1969, the non-target areas ranged from 70.6% to 90.6% in the elementary schools; 72.2% to 92.2% in the junior high schools; and 50.8% to 70.8% in the senior high schools. On January 30,1970 the non-target schools ranged from 71.8% to 91.8% in the elementary schools; 73.6%

to 93.6% in the junior high schools; and 51.7% to 71.7% in the senior high schools.

The first compliance report, dated November 3,1967, showed that there were 35 elementary school buildings needing Negro personnel; 52 non-target schools; and 47 schools needing white personnel. The compliance report dated June 6, 1969, showed that there were 28 elementary school buildings needing Negro personnel; 70 non-target schools; and 38 schools needing white personnel. On January 30,1970 there were 28 Negro target schools, 81 non-target schools and 27 white target schools. The number of buildings with 100.0% Negro faculties has been reduced from 24 to 6. No buildings have all white faculties.

In the junior high schools on November 3,1967, there were 4 Negro target schools; 10 non-target schools; and 14 white target schools. On June 6, 1969, there were 4 Negro target schools; 21 non-target schools; and 4 white target schools. On January 30,1970 there were 4 Negro target schools; 26 non-target schools and no white target schools.

At the senior high school level, on November 3,1967, there were 5 Negro target schools; 1 non-target school; and 5 white target schools. On June 6, 1969, there were 2 Negro target schools; 7 non-target schools; and 2 white target schools. On January 30,1970 there was 1 Negro target school, 9 non-target schools and 1 white target school.

At no time since 1967 has any of the secondary schools had faculties which were 100% of either race. Significantly, within this same period the number of Negro administrators assigned to schools west of Rock Creek Park increased. The

table below indicates that on October 19,1967, and June 6, 1969, and January 30,1970, administrators were assigned as follows:

	10-19-67		6-6-69		1-30-70	
	W	N	W	N	W	N
Eaton-Hearst	1		1		1	
Hardy-Key	1		1			1
Hyde-Fillmore J.	1			1		1
Janney	1		1		1	
Lafayette	1		1		1	
Mann-Stoddert	1		1			1
Murch	1		1		1	
Oyster	1		1		1	
Total Elementary	8	0	7	1	5	3
Deal	3		2	1	2	2
Gordon	2	1	1	2	1	2
Total Junior High	5	1	3	3	3	4
Western	2	1	2	2	2	2
Wilson	3	1	1	3	1	3
Total Senior High	5	2	3	5	3	5

In summary, schools west of Rock Creek Park in October 1967, had only three Negro officers or 1/7 of the total number of administrators. These same schools in January 30,1970 had 12 Negro officers or over 50% of the total of 24 officers.

Equalization of Particular Resources

Between April and June, 1969 the school administration submitted to the Board of Education several charts dealing with the distribution of public school resources and programs and concerning particularly Special Projects, Average Expenditure Per Pupil, Essential Equipment Inventory, Curriculum Progress, Textbooks, and School Libraries.

The Special Projects and Program Survey demonstrates a substantial effort being made by the defendants to establish special programs to meet the needs of educationally disadvantaged children in low income areas. According to the

survey the 30 schools in the area designated as the most severely disadvantaged had in operation a total of 523 programs during fiscal year 1969. Another group of 52 schools which have been designated as educationally disadvantaged had in operation a total of 452 special programs. In comparison to the total of 975 special programs operating in these 82 disadvantaged schools, the remaining 100 schools had in operation a total of 363 special programs.

A further effort was made during the school year 1969-70 to concentrate the funding in the disadvantaged areas by a further concentration of special programs in disadvantaged schools.

Reports and recommendations of the administration dealing with Textbooks, Equipment, Course Offering and Libraries were submitted to the Board of Education and approved on August 1, 1969 and September 26,1967. During the 1969-70 school year the administration has actively undertaken the corrective measures approved by the Board to more nearly equalize the availability of these educational resources.

Defendants have moved to equalize curriculum opportunities by providing system-wide, free selection of courses. A student may now choose from a uniform, system-wide course selection list that is provided to each student. The student is required to arrange his program to take four unitis of English, one and one-half units of social studies (American History and American Government), one unit of mathematics, one unit of laboratory science and the regular program of physical education during his secondary school career. (7 1/2 units). The remainder of the 16 units required for graduation

(8 1/2) may be chosen from a wide variety of courses. Some courses have sequential requirements -- (second year French requires completion of first year French) -- but in all other cases each student is free to take any course on the system-wide list, provided that 15 or more students in his building also request it. A student course request form and instructions is supplied to each student.

In developing a program, a student and his parents are assisted by his counselor and other school personnel. The student's program is, however, his own. It is his response to his expectations, needs, inclinations and perception of his abilities.

The extent of integration of faculties and demountables to relieve overcrowding is not believed to have had a substantial impact on the 1967-68 per pupil expenditure figures as it would have on later school years. Regarding teacher integration at the elementary school level, there were 52 non-target schools in November, 1967, but there were 70 non-target schools in June, 1969, and 81 non-target schools in January, 1970. In addition, the administration has been taking continuing steps to equalize specific resources in the elementary schools during the 1969-70 school year pursuant to recommendations referred to above approved by the Board of Education. Even assuming that a per pupil expenditure figure is a meaningful yardstick for educational offerings, it is submitted that those figures for the 1967-68 school year are untimely and should not form the basis for any further decree by this Court.

Conclusion

The equalization of educational offerings is a long-range, far-reaching project that cannot be accomplished in a short-period of time or with a formula of per-pupil expenditure equalization within a range of 5% proposed by plaintiff Hobson. The task is particularly difficult at the elementary school level because of the degree of overcrowding and the relative inflexibility of school boundaries when compared with secondary school levels. The defendants have expended untold man hours toward the goal of equal educational offering. Guidelines, standards of equality and decision-making data is burdensome to acquire and assemble. This job is being eased now by the school system's automatic data processing capacity. With the aid of data processing, more progress toward equalization is expected. Since their decision to abide by the decree of this Court to the present time defendants have acted in full good faith with the expertise, time, money, facilities, and data capacity available to them. The policies and actions of defendants are plainly without discrimination or malice toward any segment of the public school population. A simple formula offered by plaintiff -- which incidentally he failed to offer while a member of the Board of Education -- belies the complex nature of public education and equal educational offering and the efforts of these defendants to comply with the letter and spirit of the decree of this Court.

Accordingly, it is respectfully requested that plaintiff's amended motion for further relief and for enforcement of the decree be denied and that the Court vacate the decree and dismiss the complaint filed herein.

Hubert B. Pair

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

JULIUS W. HOBSON, et al., :

Plaintiffs :

v. : Civil Action No. 82-66

CARL F. HANSEN, et al., :

Defendants. :

OPPOSITION OF DEFENDANTS TO PLAINTIFF HOBSON'S AMENDED MOTION FOR FURTHER RELIEF AND ENFORCEMENT OF DECREE

Defendants oppose plaintiff Hobson's amended motion for further relief and enforcement of decree filed herein and as grounds therefor respectfully refer the Court to the memorandum of points and authorities filed in opposition to plaintiff Hobson's motion.

Hubert B. Pair
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Acting Corporation Counsel, D.C.

John A. Earnest
JOHN A. EARNEST
Assistant Corporation Counsel, D.C.

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IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF COLUMBIA

1033

HOBSON, et al)
)
vs.) 1969 No. 82-66
)
HANSEN, et al)

MOTION FOR FURTHER RELIEF AND
FOR ENFORCEMENT OF DECREE

Comes now Movant, Julius Hobson, by and through Counsel, and moves this Honorable Court for further relief and for enforcement of the decree issued in the above captioned cause and as reasons therefore state:

1. This Court entered a judgment and decree on June 19, 1967. Said judgment and decree were affirmed on appeal by the United States Court of Appeals for the District of Columbia, as Smuck vs. Hobson (No. 21,167), and Hansen vs. Hobson (No. 21,168) on January 21, 1969.

2. Movant Julius Hobson is an original Plaintiff in this instant litigation and has since said original decree and judgment concerned himself in great detail with the enforcement or non-enforcement of said decree. He is currently a member of the elected Board of Education of the District of Columbia.

3. Defendants, excluding Movant, have failed and refused to implement this Court's judgment and decree. Said failure and refusal in particular has occurred in the following areas: (1) unequal expenditures per pupil; (2) unequal distribution, use and administration of special projects;

(3) unequal distribution of essential equipment in the public schools; (4) discrimination in curriculum; (5) inpermissible use of a track system; (6) unequal distribution of books; (7) unequal availability of library facilities and (8) discrimination in assignment of teachers.

4. Movant, individually, and as a representative of the District of Columbia Board of Education, has unsuccessfully sought a plan to enforce the decree of this Court from the Superintendent of Schools of the District of Columbia.

5. Movant, individually, and as a member of the District of Columbia Board of Education, has unsuccessfully sought a plan to enforce the decree of this Court from the District of Columbia Board of Education.

6. Defendants have had ample time and opportunity to comply with the order of this Court but have failed to do so.

7. As a result of Defendants failure to enforce the decree of this Court, children attending public schools in the District of Columbia are subjected to serious and substantial discrimination and injury in violation of the Constitution of the United States and the order of this Court.

Wherefore, Movant respectfully prays that this Honorable Court grant the above motion for further relief and for enforcement of the decree of this Court after a hearing at which evidence shall be heard on the matters raised herein.

AFFIDAVIT OF JULIUS W. HOBSON

DISTRICT OF COLUMBIA, SS

Julius W. Hobson, being first duly sworn according to law, deposes and says that he has read the attached motion for further relief and for enforcement of decree and varially believes that the allegation contained therein are true and correct to the best of his knowledge and belief.

Julius W. Hobson
Julius W. Hobson

Subscribed and sworn to this 30th day of July, 1969.

Janet Richards
Notary Public

My Commission expires on the 14th day of May, 1970.

Herbert O. Reid, Sr.
William M. Kunstler
Charles Louis Fishman
Attorneys for Movant

I hereby certify that a copy of the above captioned motion was mailed, postage prepaid, this 30th day of July, 1969 to the Corporation Counsel of the District of Columbia, 14th and E Streets, N. W., Washington, D. C. and the United States Attorney for the District of Columbia, United States Court House, Washington, D. C.

Attorney for Movant

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF COLUMBIA

HOBSON, et al)
)
vs.) No. _____
)
HANSEN, et al)

POINTS AND AUTHORITIES IN SUPPORT OF
MOTION FOR FURTHER RELIEF AND
FOR ENFORCEMENT OF DECREE

1. The complaint and order filed herein.

2. Hansen vs. Hobson, 269 F. Supp. 401 (D.D.C. 1967).

3. Bolling vs. Sharpe, 347 U.S. 497 (1954).

4. Brown vs. Board of Education, 347 U.S. 483 (1954).

5. Cooper vs. Aaron, 358 U.S. 1 (1958).

6. Green vs. County School Board of New Kent County, Virginia, 88 S. Ct. 1689 (1968).

($7,999 and under).

IN THE

UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF COLUMBIA

Hobson, et al.	:	
	:	
v.	:	No. 82-66
	:	
Hansen, et al.	:	

MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF AMENDED MOTION FOR FURTHER RELIEF AND FOR ENFORCEMENT OF DECREE

In its prior opinion herein, this Court limited its analysis of the available data on per-pupil expenditure differentials between District of Columbia schools to data on such expenditures from the general congressional appropriation for the District because such data "facilitate the court's exploration of the equities in the school administration's distribution of assets among the schools in precisely those situations when the policies and purposes of distribution come squarely within its control" (269 F. Supp. at 437; emphasis added.) At that time, this Court characterized the differentials as "spectacular" and disposed of defendants lame contentions that they were "paper statistics only." (269 F. Supp. at 437-438.)

The differentials are still spectacular. Table I in the Appendix to this Memorandum of Points and Authorities is a reproduction of an exhibit introduced at the original trial of this case. It lists the

highest 11 and the lowest 11 D.C. elementary schools in per pupil expenditures based on fiscal 1964 appropriations from the general congressional appropriation only. That table shows a spread of $411 between the highest and lowest elementary schools in D.C. Table 2 in the Appendix lists the highest 11 and the lowest 11 D.C. elementary schools in per pupil expenditures based on fiscal 1968 appropriations from the general congressional appropriation and from impact aid funds.[1/] Even though these data include impact aid funds, required by statute to be concentrated in "underprivileged areas of the city", 10 out of the 11 lowest schools in per pupil expenditures are located in Anacostia, one of the most underprivileged areas of the city. And the gap between the highest and lowest per-pupil expenditure schools has widened from $411 to $506.

1/ For some curious reason, the school administration lumped impact aid funds together with funds from the general congressional appropriation thereby making direct comparisons with prior data impossible. Similarly, Title I funds from the Elementary and Secondary Education Act of 1965 were lumped together with Title III funds. The effect of this financial juggling, inter alia, would make it extremely difficult if not impossible to establish whether the school administration has complied with the compensatory purposes of the impact aid and Title I statutes (see 269 F. Supp. at 440.)

Table 3 in the Appendix summarizes the fiscal 1968 per-pupil expenditure data for each elementary school in the District of Columbia (except for the Military Road School, which is omitted from all statistics set forth in this Motion and Memorandum because of the unavailability of individual information.) Within that table, the schools have been geographically divided into those west of Rock Creek Park, those east of the Anacostia River, and all other. That comparison reveals the startling fact that only one of the highest 35 elementary schools in per-pupil expenditures lies east of the Anacostia, and only 5 of the highest 58 are located there, while none of the schools west of Rock Creek Park are among the District's lowest 45 schools in per-pupil expenditures and only one is among the lowest 58. The data further show that the average per-pupil expenditure at all elementary schools west of the Park is $460.80 while the average at all elementary schools east of the Anacostia River is $358.06 -- a spread of over $100.

In its prior opinion herein, this Court focused on a comparison between per-pupil expenditures at predominantly white elementary schools (particularly those west of Rock Creek Park) and all other elementary schools in the District. But this Court also was particularly aware that per-pupil expenditure inequalities existed on the basis of income level as well. Table 4 in the Appendix is a reproduction of an exhibit introduced at the original trial of this case which groups per-pupil

expenditures by income level of the neighborhood. It is based on fiscal 1964 data for the general congressional appropriation only. Table 5 is a similar table based on fiscal 1968 data except that it includes impact aid funds. While both tables mask the truly gross disparities in expenditures per pupil that persist between individual schools (compare Tables 1, 2, and 3 in the Appendix), they both establish discrimination on the basis of economic status -- especially when one recalls that Table 5 includes impact aid funds.[2/] In light of the enormous disparities outlined above, it becomes appropriate to consider what remedy is required. The general principles of such a remedy are already to be found in this Court's prior opinion herein:

2/ A few simple assumptions and comparisons illustrate the point. In fiscal 1966 and 1967, the District schools were eligible for $4,300,000 in impact aid. Assume eligibility for the same amount in fiscal 1968. Then, expenditure of as little as $____ of that amount in all elementary schools in income neighborhoods under $6,000 per year would mean that the average per-pupil expenditure in the elementary schools of those neighborhoods now reported at approximately $400 including impact aid would drop to $365 excluding that aid. The assumption that 100% of such aid would be concentrated only in those schools is perfectly consistent with the statutory purpose of impact aid funds. Of course, the total dollar amount spent on elementary schools may have been even greater, and schools in the $6,000-$8,000 category may have been included, but plaintiffs submit that until these assumptions are shown to be grossly inaccurate by appropriate data supplied by defendants, a prima facie case of pervasive discrimination on the basis of economic status has been established. Even including impact aid funds, Table 5 shows that schools in the higher income areas of the city ($8,000 and over) are still receiving significantly more expenditures per pupil than those in the lower income areas ($7,999 and under).

1. This Court has already held that "the minimum the Constitution will require and guarantee is that for their objectively measurable aspects these schools be run on the basis of real equality, at least unless any inequalities are adequately justified." [269 F. Supp. at 496.]
2. This Court has already permanently enjoined defendants from discrimination on the basis of economic status. [269 F. Supp. at 517.]

In 1967, this Court deferred a more specific decree on educational resource equalization "until the dust surrounding this fall's 'substantial' teacher integration settles." (269 F. Supp. at 499.) There were, no doubt, several reasons for deferring such a more specific decree, among them the apparent expectation that "substantial" teacher integration would produce substantial equalization of per-pupil expenditures because teachers' salaries comprise a significant portion of those expenditures and because a large number of the highest paid teachers were white teachers teaching on all-white or almost all-white elementary school faculties. (See 269 F. Supp. at 438 and 499) This Court probably also was swayed by the fact that many of these issues of remedy "were ignored at trial by counsel for both sides, each intent instead on establishing or refuting the primary constitutional violation." (269 F. Supp. at 516)

It is plaintiffs' contention that, as soon as the "dust settled" with the filing in this Court of defendants' progress report on faculty

integration on January 2, 1968, it was defendants' responsibility to immediately take an inventory of educational resource distribution in the District of Columbia schools in each of the areas discussed in this Court's prior opinion herein (see 269 F. Supp. at 431-442; 495-499; 516-517). Once having taken such an inventory, defendants immediately and eagerly should have voluntarily moved to equalize resources in accordance with the general principles outlined in this Court's prior opinion. Yet defendants did nothing of the sort, partly because they appeared to be ignorant of the legal principles underlying this Court's opinion on educational resource equalization; partly because the school board and the school administration kept "passing the buck" back and forth as to whose responsibility it was to "implement the Wright decision"; and partly for reasons not apparent on the public record.

Consider, for example, the following statement by one School Board member, generally considered progressive on educational matters, at a meeting held on July 14, 1967:

> One of the unfortunate things about the data on which the Wright decision is based is that this data is three years old and I expect a great deal of that would be different if we would use the current data ***. *** I take it for instance that in the first decree, the one relating to discrimination the defendants are permanently enjointed [sic] from discrimination on the basis of racial and economic status. I take it he is referring to the difference in per-pupil expenditure in the low income schools and the schools west of Rock Creek Park. My

> guess is that differential would be mush [sic] smaller now. His figures were based on a period before the elementary-secondary act was in effect, and that is on the low income schools ***. *** I expect that Section I [of the decree] has been pretty well taken care of now by the impacted aid program and by the elementary and secondary education program. [Transcript, pp. 21-22.]

This statement completely misinterprets the statutory mandate of Title I of the Elementary and Secondary Education Act of 1965 and of the impact aid program (as applied in the District of Columbia). As noted, funds allocated under these special federal grant programs are meant to provide a compensatory supplement to regular funds. They are not intended to be used to remedy existing resource inequalities which have themselves been created by the District of Columbia School administration. Funds under these two special federal programs were meant to compensate for the educational deficiencies of certain pupils not the budgetary mismanagement of the school administration.

Perhaps it is not surprising that members of the School Board were uncertain about these vital statutory and court-mandated requirements. At a Board meeting held on December 29, 1967 to consider various progress reports due to be filed (and, in fact, filed) with this Court on January 2, 1968, members of the Board were told by their legal advisor, a representative of the D.C. Corporation Counsel's office, that he "would not presume to judge what Judge Wright would decide with regard to the sufficiency of the reports." [Transcript, p. 18.]

A principal reason why the defendants in this case have never moved to implement the educational resource equalization portions of this Court's prior opinion has been an inability to decide which defendant is responsible for such implementation. Consider the following exchange which took place at a School Board meeting on July 7, 1969 between a school board member and the then Superintendent of Schools:

Superintendent: We thought that inasmuch as the Wright Committee had been working ever since this new Board has been in operation, it would have been a little presumptious for us to have moved ahead in terms of developing any specific proposal. I think that really this is a policy matter that comes from the Board of Education. [Transcript, p. 94.]

Board Member: It seems to me there is nobody on the Board who can take a thousand pages of figures and come up with a policy. And I do not think it is our obligation as individuals to do that. To see that it is done, but not to do it. [Transcript, pp. 96-97.]

In the face of this buck-passing, one board member, in desperation, suggested later in the meeting that perhaps a return to this Court was the only answer, whereupon another board member angrily responded:

> All right, I will get before Judge Wright. I do not care anything about Judge Wright. [Transcript, p. 111; emphasis added]

In light of these quotations, it is ludicrous to suggest a failure to exhaust administrative remedies as defendants did in their Opposition to plaintiffs' original Motion for Further Relief and For Enforcement of Decree. (That Opposition was filed herein on September 30, 1969.) While the exhaustion question might arguably be present if defendants were not subject to a court order with jurisdiction retained, it is clearly not present here. Defendants are under a legal obligation to equalize educational resources irrespective of administration or court prodding by plaintiffs.

The specific orders with respect to educational resource equalization which plaintiffs now seek are the product of almost 3 years of experience with defendants' inaction in this area; a careful review of this Court's prior opinion herein; and a review of what other courts have found to be judicially manageable standards. With respect to the latter point, it should be noted that many courts have ordered equalization of per-pupil expenditures in all schools within a single school district. See, e.g., Kelly v. Altheimer, 378 F. 2d 483, 499 (8th Cir. 1967); United States v. Jefferson County Board of Education, 372 F. 2d 836, 899-900 (5th Cir. 1966), aff'd per curiam on rehearing en banc, 380 F. 2d 385 (5th Cir.), cert. denied, 389 U.S. 840 (1967); United States v. Plaquemines Parish School Board, 291 F. Supp. 841, 846 (E.D. La. 1967); Hill v. LaFourche Parish School Board, 291 F. Supp. 819, 822-823 (E.D. La. 1967); Lee v. Macon County Board of Education,

267 F. Supp. 458, 488-489 (M.D. Ala.), aff'd. , 389 U.S. 215 (1967).

The reference in the requested order to individual elementary schools rather than "administrative units" is necessary because the D.C. school administration, in compiling the 1968 per-pupil expenditure data, attempted to lump two or more elementary schools together as "administrative units" and report only the per-pupil expenditure for the unit. Once individual data for each component school were obtained, they often showed marked disparities from one school to another which were "averaged out" when only the administrative unit figure was reported.

Although the school administration should strive for precise mathematical equality in per-pupil expenditures from the regular budget (except for good cause shown), the permissible 5% deviation is designed to provide the administrative leeway necessary to deal with that "fraction" of per-pupil expenditures which this Court in its prior opinion found "not [to] betoken real inequalities in educational opportunities." (269 F. Supp. at 437.)

It should be stressed that the remedy plaintiffs request herein does not constitute an endorsement of the idea that "equal dollars" maximize "equal educational opportunity". Plaintiffs are well aware that this Court, in its prior opinion, held that:

> Where because of the density of residential segregation or for other reasons children in certain areas, particularly the slums, are denied the benefits of an integrated education, the court will require that the plan [to alleviate pupil segregation] include compensatory education sufficient at least to overcome the detriment of segregation and thus provide as nearly as possible, equal educational opportunity to all schoolchildren. [269 F. Supp. at 515.]

However, in the District of Columbia, large sums of money running into the millions of dollars are available for strictly compensatory purposes under the impact aid program and Title I of the Elementary and Secondary Education Act of 1965. It seems to plaintiffs that the elementary school system ought to be properly operated for a reasonable period of time with equalized per-pupil expenditures from the regular budget in all schools supplemented with special federal compensatory funds (and other funds for other special purposes from federal and private sources) before deciding whether defendants should be required by this Court to spend its funds from the general congressional appropriation in a compensatory manner. (However, plaintiffs' proposed order permits and plaintiffs would encourage defendants to voluntarily expend these funds in a compensatory manner.)

It should also be observed that the remedy plaintiffs propose leaves it entirely to the discretion of the defendants how per-pupil expenditures should be equalized. Without in any way waiving their rights to request more specific equalization decrees in the future,

plaintiffs in this suit seek only equalization of per-pupil expenditures themselves.

In order to insure compliance with their per-pupil expenditure decrees, each of the courts whose equalization decrees were cited above imposed strict annual reporting requirements on the school administration. Such requirements are particularly crucial here in view of repeated expressions (or wishes) on the public record by school board members, to the effect that "because the data on which the prior decision was based are now probably out of date" the legal conclusions based on that data may no longer be valid. One such example has already been cited earlier in this Memorandum in connection with the misinterpretation of the purposes of impact aid and Title I funds. Another occured at a meeting of the D.C. School Board held on July 2, 1969, when one Board member stated, in connection with a proposal to check certain school zone boundary changes with this Court in advance:

> I feel that I am going to have to vote against the proposal that we go to Judge Wright.
>
> First of all, the data on which Judge Wright based his decree--are now several years old--and may or may not be just as adaptable. ***
>
> [I]t would seem to me that it would be an awful lot better if the Board did decide what it wanted to do, what was right to do--and then did it.
>
> If we are illegal, we will find out soon enough. [Transcript, pp. 42-43.]

There are two principal problems with this attitude in the per-pupil expenditure area--and perhaps in many other areas as well. First, the D.C. School Board and the school administration frequently are not sure what data to collect in order to see whether their "suspicions", "hopes", etc. about an "improved situation" are right or wrong. Second, even if they know what pertinent data should be compiled, they have proved unwilling or unable to provide it systematically. Requests to do so are usually met with one of the following responses:

1. That data is "unavailable".

2. That data is "available", but has not been computed. It would be too expensive or difficult to compute it. We should be spending our scarce resources educating children not compiling reports.

3. We will supply you with that data but only just this once.

While these responses might be appropriate to deal with truly frivolous requests, the information at issue here is basic not frivolous. It is necessary to establish whether the School Board and School Administration are complying with this Court's prior decision. Even without that decision, it is necessary to establish compliance with at least two federal statutes (impact aid and Title I.) Leaving aside those statutes, such information is prima facie an essential tool of the school budgetary process.

Under these circumstances it is startling that defendants themselves have not voluntarily required that such information be compiled and published every year. The failure to do so suggests to plaintiffs the one somewhat novel aspect of their requested remedy--that the minimum 12 categories of information, in the tabular form referred to in the Motion, be required by this Court to be disseminated to all elementary school parents.

As a result of years of elaborate commercial litigation and administrative proceedings, the U.S. Securities and Exchange Commission has developed comprehensive reporting requirements which apply whenever a stockholder is asked to vote on election of directors and other major corporate matters. Prior to so voting, each stockholder must be given a proxy statement which must include, inter alia, certified financial statements and information on officers' salaries, etc. In many ways, District of Columbia elementary school parents have a greater stake in the success of their children's schools than the stockholders of General Motors have in that company. They are entitled to know at least the rudimentary information referred to above to make intelligent decisions about their schools and to participate intelligently in improving them. It is no answer to say that the school budget is "public". Even the school board member quoted earlier in this memorandum was stupefied by those "1000 pages of figures". Relying solely on the budget is like telling a stockholder that he can come to company headquarters and "inspect the

books".

For all the reasons outlined above, this Court should grant plaintiffs proposed decrees in the form outlined in the attached Motion.

Respectfully submitted,

COMPLAINT FOR DECLARATORY JUDGMENT
INJUNCTIVE RELIEF AND MANDAMUS

Jurisdiction

1. Jurisdiction of this Court is invoked under the First, Fifth, Ninth, Thirteenth and Fourteenth Amendments to the United States Constitution, 5 U.S.C.A. 702-706, 28 U.S.C.A. 1331, 1343, 1361, 2201, 2202, 42 U.S.C.A. 2000e (b), and D. C. Code § 11-521 in that all defendants are to be found in the District of Columbia and the complainants further say that the amount in controversy is more than $10,000.00 exclusive of interests and costs. Venue is invoked pursuant to 28 U.S.C. § 1391.

Nature of Action

2. The nature of this action is a class action, brought pursuant to Rule 23 of the Federal Rules of Civil Procedure, for declaratory relief and to restrain the named parties individually and in their official capacities from perpetuating and enforcing the existing statutory and regulatory system of employment in the Federal civil service which discriminates against plaintiffs and the classes they represent on the basis of race, sex, and national origin.

3. Plaintiffs consist of four classes: (1) Black citizens of the United States who are either currently civil service employees or prospectively such employees of the various agencies of the United States Government; (2) Indo-Hispano (Spanish-American) citizens of the United States who are either currently civil service employees or prospectively such employees of the various agencies of the United States Government; (3) Female citizens of the United States who are either currently civil service employees or prospectively such employees of the various agencies of the Government of the United States; and (4) citizens and taxpayers of the United States.

The classes are so numerous that joinder of all employees is highly impracticable; there are questions of law and fact common to all classes; the claims of the representative parties will fairly and adequately protect the interests of the classes.

The prosecution of separate actions by individual members of the classes would create a risk of:

(A) inconsistent and varying adjudications with respect to individual members of the classes which would establish incompatible standards of conduct for defendants, and (B) adjudications with respect to individual members of the classes which would as a practical matter be dispositive of the interests of other members not parties to the adjudications or substantially impair or impede their ability to protect their interests.

The defendants act and refuse to act on grounds generally applicable to the classes, thereby making appropriate final injunctive and declaratory relief with respect to the classes as a whole.

Questions of law and fact common to the members of the classes predominate over any questions affecting only individual members; and a class action is superior to other available methods for the fair and effective adjudication of the controversy.

Plaintiffs

4. Plaintiff Julius Hobson is a Black citizen of the United States and of the District of Columbia residing at 300 M Street, S. W., and is currently on leave from his employment as a statistical analyst for the Social Security Administration of the Department of Health, Education, and Welfare in Washington, D. C.

5. Plaintiff Mary E. Williams is an adult, Black female citizen of the United States and of the State of Ohio residing at 205 N. Harding Road, Columbus. Plaintiff is currently employed at the Defense Supply Agency.

6. Plaintiff Sidney O'Davis is an adult Black citizen of the United States and of the State of Ohio residing at 686 Omar Circle, Yellow Springs. Plaintiff is currently employed at Wright Patterson Air Force Base.

7. Plaintiff Evelyn Adkins is an adult, Black female citizen of the United States and of the State of Ohio residing at 504 McRae Court, Dayton. Plaintiff is currently employed at Wright Patterson Air Force Base.

8. Plaintiff Clarence E. Gullate is an adult, Black citizen of the United States and of the State of Ohio residing at 3231 West Riverview Avenue, Dayton. Plaintiff is currently employed at Wright Patterson Air Force Base.

9. Plaintiff Sheila J. Farmer is an adult, Black female citizen of the United States and of the State of Ohio residing at 7160 Dayton Liberty Road, Dayton. Plaintiff is currently employed at Wright Patterson Air Force Base.

10. Plaintiff Roberta M. Ray is an adult, White, female citizen of the United States and of the State of Ohio residing at 4095 Raymond Drive, Enon. Plaintiff is currently employed at Wright Patterson Air Force Base.

11. Plaintiff Gertrude Shepard is an adult, Black female citizen of the United States and of the State of Ohio residing at 3122 West 22nd Street, Dayton. Plaintiff is currently employed at Wright Patterson Air Force Base.

12. Plaintiff Tamar J. Hurt is an adult, Black female citizen of the United States and of the State of Ohio residing at 1570 Kimmel Lane, Dayton. Plaintiff is currently employed at Wright Patterson Air Force Base.

13. Plaintiff Robert Turner is an adult, Black citizen of the United States and of the State of Ohio residing at 772 Heck Avenue, Dayton. Plaintiff is currently employed at Wright Patterson Air Force Base.

14. Plaintiff Thomas S. Jackson is an adult, Black citizen of the United States and of the District of Columbia residing at 938 Westminster Street, N. W., Washington, D. C. Plaintiff is currently employed at the Office of the Surgeon General.

15. Plaintiff Edward J. Lopes is an adult, White citizen of the United States and of the State of Virginia residing at 309 Center Street, N., Vienna. Plaintiff is currently employed at Fort Belvoir, Virginia.

16. Plaintiff Jerry Merchant is an adult, White citizen of the United States and of the State of Maryland residing at 1921 East-West Highway, Silver Spring. Plaintiff is currently employed at the Department of Justice.

17. Plaintiff Charles E. White is an adult, Black citizen of the United States and of the State of Ohio residing at 1241 Everett Drive, Dayton. Plaintiff is currently employed at the United States Post Office.

18. Plaintiff Dumitru D. Carstea is an adult, Indo-Hispano (Spanish-American) citizen of the United States and of the State of Virginia residing at 12801 Point Pleasant Drive, Fairfax. Plaintiff is currently employed at the Department of Interior.

19. Plaintiff Torris Willis is an adult, Black citizen of the United States and of the District of Columbia residing at 3601 28th Street, N. E. Plaintiff is currently employed at the Department of the Interior.

20. Plaintiff Bradley Haigh is an adult, White citizen of the United States and of the State of Virginia residing at 1021 Arlington Boulevard, Arlington. Plaintiff is currently employed at the Department of Agriculture.

21. Plaintiff David Christy is an adult, White, citizen of the United States and of the State of Maryland residing at 5509 Marlboro Pike, District Heights. Plaintiff is currently employed at the Bureau of the Census.

22. Plaintiff Dantojse Jack is an adult, Black citizen of the United States and of the State of Maryland residing at 3002 Brightseat Road, Glen Arden. Plaintiff is currently employed at the Department of Labor.

23. Plaintiff Joyce Caldwell is an adult, Black female citizen of the United States and of the District of Columbia residing at 3636 Georgia Avenue, N. W. Plaintiff is currently employed at the Department of Health, Education, and Welfare.

24. Plaintiff Karen Henderson is an adult, Black female citizen of the United States and of the District of Columbia residing at 514 Missouri Avenue, N. W. Plaintiff is currently employed at the Department of Health, Education, and Welfare.

25. Plaintiff Alice J. Becton is an adult, Black female citizen of the United States and of the District of Columbia residing at 94 Tuckerman Street, N. W. Plaintiff is currently employed at the Department of Health, Education, and Welfare.

26. Plaintiff Estelle L. Holmes is an adult, Black female citizen of the United States and of the State of Maryland residing at 1200 Capitol Heights Boulevard, Capitol Heights. Plaintiff is currently employed at the Department of Health, Education, and Welfare.

27. Plaintiff Mary L. Prillman is an adult, Black female citizen of the United States and of the District of Columbia residing at 224 - 36th Street, S. E. Plaintiff is currently employed at the Department of Health, Education, and Welfare.

28. Plaintiff Bryan Devine is an adult, White citizen of the United States and of the State of Maryland residing at 708 Boundary Avenue, Silver Spring. Plaintiff is currently employed at the Department of Health, Education, and Welfare.

29. Plaintiff William Christiansen is an adult, White citizen of the United States and of the State of Virginia residing at 3131 9th Road N. Arlington. Plaintiff is currently employed at the Department of Housing and Urban Development.

30. Plaintiff Doris G. Mangiapane is an adult, White female citizen of the United States and of the State of Maryland residing at 10610 Glenhaven Drive, Silver Spring. Plaintiff is currently employed at the Department of Transportation.

31. Plaintiff Wallace O. Hawkins is an adult, Black citizen of the United States and of the State of Ohio residing at 339 Germantown Road, Dayton. Plaintiff is currently employed at the Veterans Administration Hospital.

32. Plaintiff Domingo Nick Reyes is an adult Indo-Hispano (Spanish American) citizen of the United States and of the District of Columbia residing at 6500 Luzon Avenue, N. W. Plaintiff is currently employed at the Civil Rights Commission.

33. Plaintiff Kidnell Wood is an adult, Black female citizen of the United States and of the State of Ohio residing at 1714 Ace Place, Dayton. Plaintiff is currently employed at the Veterans Administration Hospital.

34. Plaintiff Lester C. Smith is an adult, Black citizen of the United States and of the State of Ohio residing at 11 Coward Avenue, Dayton. Plaintiff is currently employed at the Veterans Administration Hospital.

35. Plaintiff Ralph L. Fullwood is an adult, Black citizen of the United States and of the State of Ohio residing at 33 Germantown Street, Dayton. Plaintiff is currently employed at the Veterans Administration Hospital.

36. Plaintiff Betty Drake is an adult, Black female citizen of the United States and of the State of Ohio residing at 4100 West 3rd Street, Dayton. Plaintiff is currently employed at the Veterans Administration Hospital.

37. Plaintiff Steve Williams is an adult, Black citizen of the United States and of the State of Ohio residing at 238 Whitehall Drive, Yellow Springs. Plaintiff is currently employed at the Veterans Administration Hospital.

38. Plaintiff Thomas H. Bland is an adult, Black citizen of the United States and of the State of Ohio residing at 521 Verona Road, Dayton. Plaintiff is currently employed at the Veterans Administration Hospital.

39. Plaintiff Lorien Williams is an adult, Black female citizen of the United States and of the State of Ohio residing at 1347 Stiver Avenue, Dayton. Plaintiff is currently employed at the Veterans Administration Hospital.

40. Plaintiff Lavera Henry is an adult, Black female citizen of the United States and of the State of Ohio residing at 3509 Lanchsire Avenue, Dayton. Plaintiff is currently employed at the Veterans Administration Hospital.

41. Plaintiff Lillian Price is an adult, Black female citizen of the United States and of the State of Ohio residing at 437 Crown Avenue, Dayton. Plaintiff is currently employed at the Veterans Administration Hospital.

42. Plaintiff Clyde McGowan is an adult, Black citizen of the United States and of the State of Maryland residing at 9112 Wallace Road, Lanham. Plaintiff is currently employed at the United States Information Agency.

43. Plaintiff Olivia M. Roth is an adult, White female citizen of the United States and of the State of Maryland residing at 117 Claybrook Drive, Silver Spring. Plaintiff is currently employed at the Securities and Exchange Commission.

44. Plaintiff Marion F. Conley is an adult, Black female citizen of the United States and of the State of Maryland residing at 1209 Roydale Court, Hyattsville. Plaintiff is currently employed at the Securities and Exchange Commission.

45. Plaintiff Barbar J. Head is an adult, Black female citizen of the United States and of the District of Columbia residing at 1839 Frederick Place, S. E. Plaintiff is currently employed at the Securities and Exchange Commission.

46. Plaintiff Linda A. Boll is an adult, Black female citizen of the United States and of the State of Maryland residing at 439B Wough Chapel Road, Odenton. Plaintiff is currently employed at the Securities and Exchange Commission.

47. Plaintiff Mae Belle Becker is an adult, Black female citizen of the United States and of the District of Columbia residing at 3213 Dubois Place, S. E. Plaintiff is currently employed at the Securities and Exchange Commission.

48. Plaintiff Bernice Rogers is an adult, Black female citizen of the United States and of the District of Columbia residing at 2 Ridge Road, S. E. Plaintiff is currently employed at the Office of Economic Opportunity.

49. Plaintiff Elmira S. Vaughan is an adult, Black female citizen of the United States and of the District of Columbia residing at 4004 E Street, S. E. Plaintiff is currently employed at the Office of Economic Opportunity.

50. Plaintiff Quintella M. Harley is an adult, Black female citizen of the United States and of the District of Columbia residing at 7304 Blair Road, N. W. Plaintiff is currently employed at the Office of Economic Opportunity.

51. Plaintiff Pauline R. Holton is an adult, Black female citizen of the United States and of the District of Columbia residing at 6629 13th Place, N. W. Plaintiff is currently employed at the Office of Economic Opportunity.

52. Plaintiff Arsula Brown is an adult, Black female citizen of the United States and of the District of Columbia residing at 1906 D Street, N. E. Plaintiff is currently employed at the Office of Economic Opportunity.

53. Plaintiff Ruby Hicks is an adult, Black female citizen of the United States and of the District of Columbia residing at 2330 Good Hope Road, S. E. Plaintiff is currently employed at the Securities and Exchange Commission.

54. Plaintiff Rosalie P. Lewis is an adult, Black female citizen of the United States and of the District of Columbia residing at 1415 Tuckerman Street, N. W. Plaintiff is currently employed at the Office of Economic Opportunity.

55. Plaintiff Emma Thomas is an adult, Black female citizen of the United States and of the State of Ohio residing at 3229 Lakeview Avenue, Dayton. Plaintiff is currently employed at the Dayton Electronics Supply Center.

56. Plaintiff James H. Bailey is an adult, Black citizen of the United States and of the State of Ohio residing at 4187 Slyvan Drive, Dayton. Plaintiff is currently employed at the Dayton Electronics Supply Center.

57. Plaintiff Annie Jackson is an adult, Black female citizen of the United States and of the State of Ohio residing at 1331 Liescum Drive, Dayton. Plaintiff is currently employed at the Dayton Electronics Supply Center.

58. Plaintiff Robert L. Greene is an adult, Black citizen of the United States residing in the District of Columbia. Plaintiff is currently employed at the Government Printing Office.

59. Plaintiff Clarence K. Washington is an adult, Black citizen of the United States residing in the District of Columbia. Plaintiff is currently employed at the Government Printing Office.

60. Plaintiff Herbert C. Buchanan is an adult, Black citizen of the United States residing in the District of Columbia. Plaintiff is currently employed at the Government Printing Office.

61. Plaintiff Jimmie Ficeding is an adult, Black citizen of the United States residing in the District of Columbia. Plaintiff is currently employed at the Government Printing Office.

62. Plaintiff Benjamin Smalls is an adult, Black citizen of the United States residing in the District of Columbia. Plaintiff is currently employed at the Government Printing Office.

63. Plaintiff Roena Rand is an adult, Black female citizen of the United States residing in the District of Columbia. Plaintiff is a former employee of the Government Printing Office.

64. Plaintiffs Carol M. Randers, Catherine F. Smith, Thomas J. Reeder, II, Anne B. Turpeau, Eva Braswell, Paula J. White, Rosa Dickerson, residing in the District of Columbia, 1424 - 16th Street, N. W. are currently not employed in the United States Government, but are Black and White, male and female adult citizens of the United States and seek such employment in any or all of defendants' agencies but are impaired in such efforts by the conditions set forth in claims I through IV below.

65. Plaintiff, Washington Urban League is an unincorporated association of Black and White, male and female, residents of the District of Columbia. The said plaintiff's principal function is to eliminate racial and other forms of invidious discrimination in employment, public and private.

Defendants

66. Defendants Robert E. Hampton, James E. Johnson and L. J. Andolsek are members of the United States Civil Service Commission. Defendant Hampton is the Chairman; Defendant Commissioners acting as said defendant Civil Service Commission are generally responsible by law for enforcing the laws of the United States governing the employment, promotion, classification, and other matters relating to employment in the civil service of the Government of the United States. The above defendants also have the authority and have exercised said authority to promulgate detailed rules and regulations to carry out their statutory duties. They have enforced or not enforced said regulations according to certain policies.

67. Defendant William P. Rogers is the Secretary of State of the United States and has statutory and regulatory authority in regard to civil service employment matters in said Department.

68. Defendant David M. Kennedy is the Secretary of the Treasury of the United States and has statutory and regulatory authority in regard to civil service employment matters in said Department.

69. Defendant Melvin R. Laird is the Secretary of Defense of the United States and has statutory and regulatory authority in regard to civil service employment matters in said Department.

70. Defendant John N. Mitchell is Attorney General of the United States and has statutory and regulatory authority in regard to civil service employment matters in said Department.

71. Defendant Winton M. Blount is Postmaster General of the United States and has statutory and regulatory authority in regard to civil service employment matters in said Department.

72. Defendant Walter J. Hickel is the Secretary of the Interior of the United States and has statutory and regulatory authority in regard to civil service employment matters in said Department.

73 Defendant Clifford M. Hardin is the Secretary of Agriculture of the United States and has statutory and regulatory authority in regard to civil service employment matters in said Department.

74. Defendant Maurice N. Stans is the Secretary of Commerce of the United States and has statutory and regulatory authority in regard to civil service employment matters in said Department.

75. Defendant George P. Shultz is the Secretary of Labor of the United States and has statutory and regulatory authority in regard to civil service employment matters in said Department.

76. Defendant Robert H. Finch is the Secretary of Health, Education, and Welfare of the United States and has statutory and regulatory authority in regard to civil service employment matters in said Department.

77. Defendant George W. Romney is the Secretary of Housing and Urban Development of the United States and has statutory and regulatory authority in regard to civil service employment matters in said Department.

78. Defendant John A. Volpe is the Secretary of Transportation of the United States and has statutory and regulatory authority in regard to civil service employment matters in said Department.

79. Defendant James L. Harrison is the Public Printer, Government Printing Office of the United States and has statutory and regulatory authority in regard to civil service employment matters in said agency.

80. All allegations as to "defendants" means "defendants, jointly, individually, and each of them." Each and every defendant is to be found in the District of Columbia.

FIRST CAUSE OF ACTION

81. Presidential Executive Order 10577, 19 Federal Register 7521, issued pursuant to 5 U.S.C.A. 631 and 633, reposes in the Civil Service Commission the responsibility for prescribing rules and regulations dealing with the promotion, transfer, reassignment, reinstatement or demotion of persons with competitive status without taking an open competitive examination.

Under 5 CFR part 335, Section 103, the Commission authorizes government agencies to make promotions:

> ...where the agency is administering a program designed to insure a systematic means of selection for promotion according to merit. The promotion program shall conform with the standards and instructions of the Commission and shall include:
>
> (a) Guidelines stating how promotion plans are established and operated
>
> (b) Plans for the selection of employees for promotion

Pursuant to this regulation, the Civil Service Commission has authorized the adoption of merit promotion programs, which have been and continue to be administered by the several agencies of the United States Government in such a way as to discharge, demote and penalize plaintiffs and the classes they represent and retard their advancement solely on the basis of race, sex, or national origin contrary to the dictates of the Fifth Amendment.

82. Under the said merit promotion programs plaintiffs and the classes they represent

(a) generally receive lower test scores than their white counterparts as a result of the administration of tests which are racially and culturally biased in violation of the Fifth Amendment.

(b) generally receive supervisors' appraisal ratings lower than their white counterparts as a result of racially discriminatory practices on the part of such supervisors which go unrestrained by the defendants in violation of the Fifth Amendment.

83. In contravention of the Fifth and Thirteenth Amendments and statutues of the United States, defendants have discriminated against plaintiffs and the classes they represent on the basis of race, sex or national origin in that plaintiffs:

(a) Have been and continue to be restricted and confined to the same level of employment for longer periods of time than white employees.

(b) Have received and continue to receive fewer promotions than their white counterparts.

(c) Have been and continue to be assigned functions different and more arduous than those of their white counterparts in certain facilities.

(d) Have received and will continue to receive fewer educational and training opportunities.

(e) Are subject to more disciplinary actions and harsher punishments for the same or similar conduct as their white counterparts.

84. Plaintiffs and the classes they represent who protest unfair and discriminatory employment practices based on race, sex or national origin have been penalized by one or all of the following methods and tactics in violation of their First and Fifth Amendment Rights: transfer or reassignment to jobs inconsistent with their abilities and qualifications; reprimand; harassment; abolition of job; demotion; refusal of promotion; or discharge.

85. Plaintiffs and the classes they represent are discriminated against in employment opportunities in the defendant federal departments and agencies in that:

(a) The Black percentage of the United States population is about 14%. The Indo-Hispano percentage is about 8%. The female is about 52%. Federal civil service operations are concentrated in the District of Columbia which is about 70% Black.

(b) The total Federal civil service employment by the United States Government (November 1967 figures) is 2,621,939. Of this number, 390,842 (14.9%) are Black; 68,842 (2.6%) are Indo-Hispano; and about 27% are women.

86. Total Federal Government employment is generally composed of (a) 18 general schedule classifications supposedly by degree of difficulty (5 U.S.C. 5104), (b) Wage Board employment, (c) Postal Field Service employment, and (d) other pay plans.

87. The number of Black and Spanish-American employees in Wage Board, Postal Field Service, general schedule and the other groups are as follows:

SUMMARY, ALL AGENCIES

Total Negro and Spanish-American Employment
November 1967

PAY CATEGORY	1967 EMPLOYMENT	1967 NEGRO NUMBER	1967 NEGRO %	1967 EMPLOYMENT	1967 SPANISH-AMERICAN NUMBER	1967 SPANISH-AMERICAN %
TOTAL ALL PAY PLANS	2,621,939	390,842	14.9	2,621,939	68,945	2.6
TOTAL GENERAL SCHEDULE OR SIMILAR	1,270,051	133,626	10.5	1,270,051	21,450	1.7
GS-1 THRU 4	369,968	75,846	20.5	369,968	9,687	2.6
GS-5 THRU 8	349,020	40,494	11.6	349,020	6,688	1.9
GS-9 THRU 11	296,560	12,631	4.3	296,560	3,631	1.2
GS-12 THRU 18	254,503	4,655	1.8	254,503	1,444	.6
TOTAL WAGE BOARD	596,647	121,829	20.4	596,647	32,024	5.4
UP THRU $4,499	45,023	24,464	54.3	45,023	3,009	6.7
$4,500 THRU 6,499	235,082	65,227	27.7	235,082	15,716	6.7
$6,500 THRU 7,999	233,218	28,879	12.4	233,218	11,599	5.0
$8,000 AND OVER	83,324	3,259	3.9	83,324	1,700	2.0
TOTAL POSTAL FIELD SERVICE	698,346	132,011	18.9	698,346	14,776	2.1
PFS-1 THRU 4 *	601,160	123,632	20.6	601,160	13,626	2.3
PFS-5 THRU 8	77,746	7,805	10.0	77,746	1,034	1.3
PFS-9 THRU 11	14,985	467	3.1	14,985	87	.6
PFS-12 THRU 20	4,455	107	2.4	4,455	29	.7
TOTAL OTHER PAY PLANS	56,895	3,376	5.9	56,895	659	1.2
UP THRU $4,499	6,523	1,252	19.2	6,523	173	2.7
$4,500 THRU 6,499	10,970	1,073	9.8	10,970	165	1.5
$6,500 THRU 7,999	7,107	359	5.1	7,107	85	1.2
$8,000 AND OVER	32,295	692	2.1	32,295	272	.8

* INCLUDES 4TH CLASS POSTMASTERS AND RURAL CARRIERS

88. The numbers of women in full-time white collar positions (General Schedule and equivalent grades) including Postal Field Service and other pay plans are as follows:

FULL-TIME WHITE COLLAR EMPLOYMENT
BY GENERAL SCHEDULE AND EQUIVALENT GRADES

WORLDWIDE
(Women)

GRADE A/	EMPLOYMENT 31 OCTOBER 1967		
	TOTAL	WOMEN	
		NUMBER	%
01	10,817	7,740	71.6
02	50,660	40,025	79.0
03	153,287	118,601	77.4
04	227,820	142,319	62.5
05	574,184	170,123	29.6
06	113,003	51,462	45.5
07	145,781	49,969	34.3
08	41,852	9,058	21.6
09	162,304	36,130	22.3
10	23,209	2,822	12.2
11	144,063	15,316	10.6
12	118,180	7,448	6.3
13	85,308	3,623	4.2
14	42,938	1,583	3.7
15	22,901	577	2.5
16	6,321	124	2.0
17	2,349	35	1.5
18	756	5	.7
ABOVE 18	609	15	2.5
UNGRADED	6,168	2,417	39.2
TOTAL B/	1,932,510	659,403	34.1

A/ The grades or levels of the various pay systems have been considered equivalent to specific general schedule grades solely on the basis of comparison of salary rates, specifically, in most instances, by comparing the 4th step GS rates with comparable rates in other pay systems.

B/ Excludes employees of Central Intelligence Agency, National Security Agency, Board of Governors of Federal Reserve System and Foreign Nationals overseas.

89. The statistical pattern of discrimination in the above figures (paragraph 87) are generally true for all defendants' agencies, though markedly worse in many of them. Said precise figures are found in the official United States Government publications "Study of Minority Group Employment in the Federal Government, 1967" and "Study of Employment of Women in the Federal Government, 1967" prepared by defendant Civil Service Commission.

90. The aforesaid discrimination prevades the entire pay
(see paragraph 91)
schedule. The following charts, for example, show for the year 1967 grade groupings of plaintiffs and the classes they represent. The greater proportions of employees in each of these classes are concentrated in the lowest GS grades 1-6, while at the same time very small proportions of employees in each of the classes are found in the highest GS grades 13 and above. Data published by the defendant Civil Service Commission show that in the case of the defendant Civil Service Commission and other said agencies the GS grade groupings of the said classes are similar or worse in terms of low grade concentrations and absences of members of the said classes in GS grades 13 and above.

91. The official figures reprinted in paragraph 87 and 90 establish a pattern of discrimination against plaintiffs and the classes they represent. Defendants are aware, and have been for many years, that the policies and practices alleged have had the purpose and/or effect of denying plaintiffs and the classes they represent the rights and benefits secured to them by law in the Federal service. Defendants have failed to perform the duties required by them of law to insure that plaintiffs and the classes they represent are in fact promoted, transferred, re-assigned, re-instated, disciplined or demoted according to merit. As a result of the aforesaid failure of defendants, the pattern of discrimination that prevades the Federal civil service has not diminished or abated, as is established by the official figures and statistics prepared by defendants in the official sources referred to in paragraph 89.

92. The creation, existence, filling of, and other dynamics in regard to said classifications are governed by statutory and regulatory systems covering appointments, transfers, promotions, disciplinary actions, demotions, grievances, appeals and other related matters. The statutes and regulations are found generally in Title 5 of the U. S. Code, Title 5 of the Code of Federal Regulations, Chapters I and IV and in the Federal Personnel Manual.

93. The system described in the above paragraph is based upon two principles: (1) all action of any type in regard to an employee is ultimately based upon the judgment of his or her supervisor; (2) initial employment is based upon a statutory scheme (5 U.S.C. 3317, 3318) whereby the supervisor is entitled to choose one of three certified persons obtained from a register of qualified persons kept by defendant Civil Service Commission.

94. The Annual Report of the Civil Service Commission for 1968 (page 21) states that "the merit system was set up in the 1880's by white men for white men, not for Negroes or for women."

95. The purpose and effect of the above described system of Federal civil service employment and the statutes, rules and regulations pertaining thereto, is discrimination based upon the race, sex or national origin of plaintiffs and their classes. Said system is jointly and severally administered by defendants and their agencies. Said system and its administration by defendants violates the First, Fifth, Ninth, Thirteenth and Fourteenth Amendments to the Constitution.

96. Defendants acting pursuant to their authority under the Government of the United States have affirmatively established said system of civil service employment. In such establishment defendants have completely failed to meet the Constitutional obligations placed upon them by the First, Fifth, Ninth, Thirteenth and Fourteenth Amendments to create a system which does not discriminate based upon race, sex or national origin.

97. Defendants and their supervisory and similar agents empowered under said system to make decisions regarding the employment, promotion, demotion, separation, benefits and other like employment decisions have been and are continuing to make said decisions on the basis of race, sex and national origin against plaintiffs and members of their classes. The making of said decisions in such manner violates the First, Fifth, Ninth, Thirteenth and Fourteenth Amendments to the Constitution.

98. The statutory (e.g., 5 U.S.C. 3317, 3318) and regulatory scheme which embodies the principles of giving unbridled discretion to supervisors and other such personnel in making appointments, promotions, and other such decisions and the concentration of male, white, non-Spanish-American personnel in such supervisory positions is inherently discriminatory on the grounds of race, sex and national origin. The said system has the purpose and effect of being discriminatory, is unconstitutional on its face, and is in violation of the First, Fifth, Ninth, Thirteenth and Fourteenth Amendments to the Constitution.

99. The statutory (Title 5 U.S.C.) scheme creating a classification system for Federal civil service employees, together with the supplementary rules and regulations was designed to and has the effect of deliberately discriminating on the basis of race, sex and national origin against plaintiffs and their classes, and to encourage such discrimination, all in violation of the First, Fifth, Ninth, Thirteenth and Fourteenth Amendments to the Constitution.

100. Plaintiffs have information and believe, and therefore allege, that defendants have conducted numerous surveys and studies which have revealed and disclosed that the above allegations are true and correct.

101. Defendants and their agents are engaged in a deliberate and concerted policy of non-adoption and non-enforcement of a fair and effective system governing appointments, transfers, promotions, demotions, grievances and appeals, with the deliberate purpose and effect of encouraging discrimination against plaintiffs and the classes they represent in the Federal civil service, all in violation of the First, Fifth, Ninth, Thirteenth and Fourteenth Amendments to the Constitution.

SECOND CAUSE OF ACTION

102 All of the material allegations in paragraphs 1 through 101 are hereby incorporated by reference.

103. Defendants purposefully, or as the result and effect of the illegal and discriminatory policies referred to above, deny employment opportunities in any form to plaintiffs and the classes they represent, in violation of the First, Fifth, Ninth, Thirteenth and Fourteenth Amendments to the Constitution, and of the laws of the United States.

104. Defendants are aware, and have been for many years, that the allegation in paragraph 103 is true and accurate. Plaintiffs have information and believe, and therefore allege, that defendants have conducted numerous surveys and studies which have revealed and disclosed that the above allegations are true and correct.

THIRD CAUSE OF ACTION

105. All of the material allegations in paragraphs 1 through 104 are hereby incorporated by reference.

106. It is the declared public policy of the United States as stated in 42 U.S.C.A. 2000e (b) and 5 U.S.C. § 7151, to insure equal employment opportunities for Federal employees without discrimination because of race, color, religion, sex or national origin and the President of the United States is directed to utilize his existing authority to effectuate this policy. Presidential Executive Order 11478, issued pursuant to 42 U.S.C.A. 2000e (b), charges the defendants' Civil Service Commissioners and Secretaries of the various Federal agencies with insuring equal employment and promotional opportunities to all government employees under their jurisdiction and directs them to take affirmative action to the end to see that this policy be carried out and provides in part as follows:

"It has long been the policy of the United States Government to provide equal opportunity in Federal employment on the basis of merit and fitness and without discrimination because of race, color, religion, sex, or national origin. All recent Presidents have fully supported this policy, and have directed department and agency heads to adopt measures to make it a reality.

As a result, much has been accomplished through positive agency programs to assure equality of opportunity. Additional steps, however, are called for in order to strengthen and assure fully equal employment opportunity in the Federal Government.

NOW, THEREFORE, under and by virtue of the authority vested in me as President of the United States by the Constitution and statutes of the United States, it is ordered as follows:

SECTION 1. It is the policy of the Government of the United States to provide equal opportunity in Federal employment for all persons, to prohibit discrimination in employment because of race, color, religion, sex, or national origin, and to promote the full realization of equal employment opportunity through a continuing affirmative program in each executive department and agency. This policy of equal opportunity applies to and must be an integral part of every aspect of personnel policy and practice in the employment, development, advancement, and treatment of civilian employees of the Federal Government.

SECTION 2. The head of each executive department and agency shall establish and maintain an affirmative program of equal employment opportunity for all civilian employees and applicants for employment within his jurisdiction in accordance with the policy set forth in section 1. It is the responsibility of each department and agency head, to the maximum extent possible, to provide sufficient resources to administer such a program in a positive and effective manner; assure that recruitment activities reach all sources of job candidates; utilize to the fullest extent the present skills of each employee; provide the maximum feasible opportunity to employees to enhance their skills so they may perform at their highest potential and advance in accordance with their abilities; provide training and advice to managers and supervisors to assure their understanding and implementation of the policy expressed in this Order; assure participation at the local level with other employers, schools, and public or private groups in cooperative efforts to improve community conditions which affect employability; and provide for a system within the department or agency for periodically evaluating the effectiveness with which the policy of this Order is being carried out.

SECTION 3. The Civil Service Commission shall provide leadership and guidance to departments and agencies in the conduct of equal employment opportunity programs for the civilian employees of and applicants for employment within the executive departments and agencies in order to assure that personnel operations in Government departments and agencies carry out the objective of equal opportunity for all persons. The Commission shall review and evaluate agency program operations periodically, obtain such reports from departments and agencies as it deems necessary, and report to the President as appropriate on overall progress. The Commission will consult from time to time with such individuals, groups, or organizations as may be of assistance in improving the Federal program and realizing the objective of this Order.

SECTION 4. The Civil Service Commission shall provide for the prompt, fair, and impartial consideration of all complaints of discrimination in Federal employment on the basis of race, color, religion, sex or national origin. Agency systems shall provide access to counseling for employees who feel aggrieved and shall encourage the resolution of employee problems of an informal basis. Procedures for the consideration of complaints shall include at least one impartial review within the executive department or agency and shall provide for appeal to the Civil Service Commission.

SECTION 5. The Civil Service Commission shall issue such regulations, orders, and instructions as it deems necessary and appropriate to carry out this Order and assure that the executive branch of the Government leads the way as an equal opportunity employer, and the head of each executive department and agency shall comply with the regulations, orders, and instructions issued by the Commission under this Order.

SECTION 6. This Order applies (a) to military departments as defined in section 102 of title 5, United States Code, and executive agencies (other than the General Accounting Office) as defined in section 105 of title 5, United States Code, and to the employees thereof (including employees paid from nonappropriated funds), and (b) to those portions of the legislative and judicial branches of the Federal Government and of the Government of the District of Columbia having positions in the competitive service and to the employees in those positions. This Order does not apply to aliens employed outside the limits of the United States.

SECTION 7. Part I of Executive Order No. 11246 of September 24, 1965, and those parts of Executive Order No. 11375 of October 13, 1967, which apply to Federal employment, are hereby superseded."

107. Pursuant to Executive Order 11478 the Civil Service Commission and the various Federal agencies have issued equal employment opportunity regulations, 5 CFR Part 713 which on their face and in application fail to provide for fair and impartial consideration of all complaints but, instead, preclude the adoption and utilization of fair procedures for investigating, hearing and reviewing complaints of racial discrimination and further preclude the institution of practices to insure plaintiffs and the classes they represent equal employment opportunities in contravention of Executive Order 11478, 42 U.S.C.A. 2000e (b) and the First, Fifth, Ninth, Thirteenth and Fourteenth Amendments.

108. The statutes of the United States specifically prohibit discrimination in Federal employment only as to the rights of the individual, not the group (5 U.S.C. 7154). Procedures for individuals -- case by case determination of issues -- are prescribed by the pertinent executive orders (E.O. 10590, E.O. 10925, and E.O. 11240 and 11478 and by regulatory provisions (5 CFR 1401.1 et seq).

109. The control of the Government of the United States is almost totally vested in White persons and the plaintiffs' classes, even though holding upper classified positions in some few cases, are effectively excluded from any part in this control, all of which is key to the system of civil service employment itself.

110. Plaintiffs and the classes they represent who used the administrative machinery for processing complaints of racial discrimination prior and, subsequent to the effective date of Executive Order 11478 have been subjected to unfair procedures and racial bias on the part of the investigating, hearing, and reviewing officers and have received adverse decisions unsupported by the evidence contrary to the Fifth, Ninth, Thirteenth and Fourteenth Amendments to the United States Constitution.

111. The administrative remedy offered plaintiffs under Civil Service Commission Regulations 5 C.F.R. 713 is a sham and contrary to the Fifth, Ninth, Thirteenth and Fourteenth Amendments by reason of:

(a) Practices, procedures and personnel employed in the investigation hearing and review of complaints.

(b) The absence of objective and meaningful review by the Civil Service Commission or federal courts since the records on which it bases its determinations are wholly unreliable due to the unconstitutional method by which they are developed and by reason of the racially discriminatory practices and procedures effective within the Civil Service Commission itself.

FOURTH CAUSE OF ACTION

112. All of the material allegations in paragraphs 1 through 111 are hereby incorporated by reference.

113. Plaintiffs and the classes they represent allege that the discriminatory policies and practices herein above described on the basis of race also occur, and have occurred, in a pervasive form on the basis of sex, in violation of the First, Fifth, Ninth, Thirteenth and Fourteenth Amendments to the Constitution, and of the laws of the United States.

DAMAGES AND RELIEF SOUGHT

114. The remedies here sought cannot by law or in fact be obtained through administrative process.

115. As a result of the practices and policies of defendants delineated above, plaintiffs and the classes they represent suffer irreparable harm and are without administrative or legal remedies.

116. Plaintiffs and their classes are currently suffering at the hands of defendants an annual loss of more than one billion dollars as a result of defendants maintenance of illegal discrimination in employment practices as outlined above.

117. Wherefore, plaintiffs respectfully request the Court for an order --

(1) directing the defendants to:

A. Adopt necessary policies, procedures, and actions designed to achieve equitable representation in their overall employment for each department and agency and equitable representation in every unit of said departments or agencies containing 50 or more persons in regard to composition by race, sex and national origin thereof at the end of one year, provided, however, that as to the unit requirements, said departments or agencies will be allowed to vary from this standard in those areas in which said department or agency can demonstrate that the population percentage of plaintiffs' classes is lower than the national average. Said equitable representation applies to all classification grade and step increase levels.

B. Abolish the present system by which supervisors and others have discretion to make unjustified personnel decisions on the basis of race, sex and national origin and substitute therefor an employment system in which personnel decisions cannot be made on the basis of irrelevant considerations of race, sex and national origin.

C. Appoint a Master to establish an effective and prompt procedure to provide back pay to members of plaintiffs' classes for the results of past discrimination.

D. If the goal set forth in A above is not achieved at the end of one year, then forthwith to immediately hire and promote sufficient members of plaintiffs' classes to create equitable overall representation, creating positions where required.

E. If the goal in A above is not achieved by the application of A, B, or D above at the end of two years, then to freeze all appointments and promotions of all personnel other than members of plaintiffs' classes until such time as the goal set forth in A above is achieved.

(II)

A. Enjoin the enforcement of Sections 5 U.S.C. 3317, 3318, 7154 and declare said sections unconstitutional and void on their face and as applied.

B. Enjoin the enforcement of any other Federal civil service employment statutes in conflict with the necessary orders of this Court.

C. Designate a master or masters to supersede defendants as to all matters specifically concerning equal employment opportunity in the Federal civil service.

(III) Granting such other and further relief as may be necessary and proper.

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VERIFICATION OF COMPLAINT

Julius Hobson, being first duly sworn according to law deposes and says that he has read the aforesaid complaint and verally believes that the facts alleged therein are true and correct to the best of his knowledge and belief.

Julius Hobson

Signed and sworn to before me this 12th day of September, 1969.

My Commission expires on the _____ day of _____, 19 ___.

Notary Public